SENATE—*Monday, September 30, 1996*

The Senate met at 10 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:

Eternal God, Sovereign of history, who gives beginnings and an end, on whom our mortal efforts depend, soon this hallowed Chamber will be silent for a time. The 104th Congress will be completed. Historians will write the human judgments of what has been accomplished, but You will have the final word about what has been achieved. It is Your affirmation that we seek. Senators in both parties have prayed to know and do Your will. Often there has been sharp disagreement on what is best for our Nation. Thank You for those times that debate led to deeper truth and compromise to the blending of aspects of a greater solution. We remember those moving moments when we sensed Your presence, received supernatural power, and pressed on in spite of tiredness and tension. Help us to forgive and forget any memories of strained relationships or debilitating differences. Preserve the friendships that reach across party lines. Father, help us to finish well. Give us strength to complete the work of this day with expeditious excellence. Renew the weary, reinforce the fatigued, rejuvenate the anxious. When it is all said and done, there is one last word we long to hear. It is Your divine accolade, "Well done, good and faithful servant." In the name of our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will immediately begin consideration of the omnibus appropriations bill. There will be debate only on that matter until 2 p.m. today. Rollcall votes could occur any time after 2 p.m., on or in relation to the omnibus appropriations bill, or other items cleared for action.

The Senate may also be asked to turn to consideration of the conference reports accompanying the Defense appropriations bill, the FAA reauthorization bill, or a parks bill. This is a different parks bill from the one that has been pending in the Senate now for several days, but it did pass the House by an overwhelming margin, I think with only seven votes against it.

A late-night session is possible in order to complete action on the omnibus appropriations bill, which must be signed by the President by midnight tonight in order to fund various parts of the Government for the new fiscal year, which begins tomorrow.

Let me say, Mr. President, again, that I am very pleased we were able to reach agreement on this omnibus appropriations bill. It is before us. It is large. But it has been reviewed by the House. In fact, the House voted to pass the omnibus appropriations bill by a vote of 370 to 37, an overwhelming vote of approval. I listened to the debate well into the night on Saturday night. In fact, I stayed up until I saw the final vote, at about 10:30. They went into a lot of detail on what is in the bill. I was somewhat surprised and impressed by the way that it was presented, the information that was given to the House Members, and by the extremely bipartisan and very gentle debate that occurred.

Congressmen who had been fighting each other vigorously for the last 2 years were praising each other and saying what a good job had been done. Any time you have a bill this large, I am sure there are some mistakes included. I am sure that any one of us can find a lot of things that we do not like about it. But it has been passed, now, by the House. The President has endorsed it in writing. His letter of endorsement is in the RECORD. I placed it there last Saturday.

Now it is incumbent upon the Senate to do our job. It is all in our hands. We must act on this before late tonight so it will have time to be put together and delivered to the President. We have a number of Senators who have questions they want to raise about it, perhaps. The conference—the Democrats will meet at 12, the Republicans will be meeting at 2. We will talk it through. It is going to take a lot of cooperation—and sacrifice, as a matter of fact, in some cases, to get work completed.

There are other issues pending. Obviously, we need to get the FAA reauthorization done. I am committed to doing that. There appear to be some Senators who are willing to have a scorched earth policy, which would work against the Federal Aviation Administration, airport safety in America, against their individual States, and over a very small provision which is actually a fix in the law that was inadvertently caused.

We need to find way to work this out. We are trying to do it, again in a bipartisan way. I know Senator DASCHLE would like to do that. I know there are Senators like Senator PRYOR and FRITZ HOLLINGS on that side, Senator MCCAIN, and, obviously, Senator STEVENS, and so where there is a will there will surely be a way. We will try to work that out.

The parks bill is a major preservation piece of legislation. Some of the parks that were controversial or were strongly opposed by the administration were taken out. But the chairman of the committee in the House, Congressman YOUNG of Alaska, spoke very strongly for it. Some of the provisions that are desperately desired are in here, such as the Presidio, Tallgrass project—a whole number of others are included in this bill. So I hope we will find a way to get through it and get passage of this parks legislation.

If we can leave tonight having passed the omnibus appropriations bill, the Defense appropriations bill, a parks bill, and the FAA reauthorization, we could go out truly on a very high note.

I know our colleagues who are leaving, like the Senator from Alabama, who I am pleased to see back with us here this morning, are prepared to speak, as well as other Senators who are retiring after many, many years of great service—they would feel very good. It would give us a little time to thank them one last time before they leave this Chamber.

WAIVING CERTAIN ENROLLING REQUIREMENTS IN H.R. 4278—HOUSE JOINT RESOLUTION 197

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 197, which was received from the House, and further, the joint resolution be considered read three times and passed, the motion to reconsider be laid upon the table.

Mr. STEVENS. Reserving the right to object, what is that?

Mr. LOTT. That is regarding hand enrollment of the omnibus appropriations bill.

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

The joint resolution (H.J. Res. 197) was considered, ordered to a third reading, read for a third time, and passed.

Mr. LOTT. I yield the floor.

RESERVATION OF LEADER TIME

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

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of H.R. 4278, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4278) making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes.

The Senate proceeded to consider the bill.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I might say to the leader, that last resolution was a significant resolution. I would like to talk about that later.

In any event, Mr. President, let me yield to my good friend from Alabama for the statement he wishes to make, reserving the right to resume the floor after he finishes his short remarks.

The PRESIDING OFFICER. The Senator from Alabama.

RFD'S 100TH ANNIVERSARY AND CONGRESSMAN RICHARD HENRY CLARKE

Mr. HEFLIN. Tomorrow, Mr. President, on October 1 of this year, the Post Office will celebrate the 100th anniversary of Rural Free Delivery [RFD]. RFD now serves the whole country, some 25.5 million households and businesses in all, and it is a necessity in States like Alabama. In fact, I am proud to say that Congressman Richard Clarke of Alabama was an early leader in the effort to initiate this service. As this important anniversary approaches, I would like to recount Congressman Clarke's leadership efforts in its successful implementation.

On January 5, 1892, Representative Richard Clarke became the first Member of Congress to introduce a bill to make RFD a permanent service. He introduced bills in two succeeding Congresses, H.R. 13 in the 52d and H.R. 402 in the 53d "To provide for the free collection and delivery of mails in rural districts." He contacted many Members on the need for such legislation and made the first speech advocating the establishment of the program. When the bill was finally adopted by Congress, Mr. Clarke was engaged in a campaign for Governor of Alabama. Therefore, Congressman Tom Watson of Georgia took the lead in obtaining its passage. Although his name does not appear as the official sponsor of the legislation which ultimately created RFD, the people of his district and the State of Alabama have every right to claim that this Member of Congress was a leader in establishing RFD.

Richard H. Clarke was born in Dayton, Marengo County, AL on February 9, 1843. He attended Green Springs Academy and was graduated first in his class from the University of Alabama in July 1861. During the Civil War, he served in the Confederate Army as a lieutenant in the First Battalion of the Alabama Artillery. He later studied law, was admitted to the bar in 1867, and began practicing in his hometown. He later moved to Demopolis, also in Marengo County, where he continued to practice law. From 1872 until 1876, he served as the State solicitor for Marengo County. He was the prosecuting attorney of the seventh judicial circuit in 1876 and 1877 and later resumed his private law practice in Mobile, AL. He served as president of the Alabama State Bar Association in 1897.

He was elected as a Democrat to the 51st Congress and to the three succeeding Congresses. He served from March 4, 1889 through March 3, 1897. He served on the Rivers and Harbors Committee. Among his many legislative accomplishments was the deepening of the channel of Mobile Harbor and the establishment of Mount Vernon Hospital for the mentally ill. He ran for Governor of Alabama as a "sound money"—gold standard—Democrat in 1896, but was defeated by the silver standard candidate, Joseph Johnston. He resumed his law practice and served in the State house of representatives in 1900 and 1901. He passed away in St. Louis, MO on September 26, 1906 and was buried in the Magnolia Cemetery in Mobile. His grandson, Dr. Richard Clarke Foster, served as president of the University of Alabama in the late 1930's and early 1940's.

Of course, Congressman Clarke was by no means alone in his efforts on behalf of RFD. The Post Office says that the first rural delivery route began just after the Civil War, in a very unofficial way. In 1868, a group of families in Norwood, GA, hired a freed slave named Jerry Elliot to deliver their mail. Mr. Elliot collected his employers' sorted mail at the local post office, where future Congressman Tom Watson worked as a clerk. Apparently, Watson was highly impressed with the idea, and years later he joined as a crucial sponsor of legislation to fund the service.

The official battle over RFD began more than 20 years later and spanned four Postmaster Generals. John Wanamaker, appointed in 1889, was the first Postmaster General to urge adoption of Rural Free Delivery. Wanamaker had received a number of letters complaining that the cities received free delivery, but rural America did not. Free delivery for urban areas had begun in 1863.

At Postmaster General Wanamaker's request, the Congress passed a joint resolution on October 1, 1890, to authorize a test of the free delivery system in small towns and villages. It also appropriated $10,000 for this pilot program. The towns Wanamaker selected for the experiment ranged in size from 400 to 8,000 residents. Farmers became strong advocates of the service, realizing that they would receive daily market quotations and information about where they could sell their crops.

With the success of his experiment and the strong support of the farmers, Wanamaker continued to push for Rural Free Delivery.

The same year that Congressman Clarke introduced his second RFD bill, Congressman Tom Watson's legislation to extend RFD to farmers, rather than just villages and towns, was passed. But this measure, too, only provided for an experimental expansion. Postmaster General Wanamaker's successor, William Bissell, argued correctly that this amount was vastly insufficient to facilitate permanent RFD. In fact, Bissell refused even to continue experimentation, and a stand-off between him and Congress ultimately forced his resignation.

Bissell's successor, Postmaster General William Wilson, complained that the Post Office's funding was so small that he might only improve existing services. So, a Senator named Marion Butler from North Carolina urged passage of a further appropriation, and the Post Office began an experimental system in West Virginia. This experiment proved successful, and it led to the establishment of the current system with the help of further Congressional appropriations. By that time, Postmaster General Wilson had been succeeded by James A. Gary.

Mr. President, I am proud that a Member of Congress from Alabama—Richard Henry Clarke—was so influential in the establishment of Rural Free Delivery, a service most Americans in rural areas take for granted today. Although there are several individuals who might arguably be considered the father of RFD, I wanted to make sure Congressman Clarke's efforts did not go unrecognized. The creation of this service is very much a part of his legacy.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I see the distinguished chairman of the Appropriations Committee is here. If he wishes to make an opening statement on this bill, I will be pleased to yield to him. I have a lengthy statement to make about the subject I believe should precede this omnibus appropriations bill, the FAA conference report. If the Senator from Oregon wishes to make a statement, I will be happy to yield to him.

Mr. President, I ask unanimous consent to yield to the Senator from Oregon with the understanding that I will resume the floor when he has completed his statement.

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

OMNIBUS CONSOLIDATED APPROPRIATIONS, 1997

The Senate continued with the consideration of the bill.

Mr. HATFIELD. Mr. President, I believe that the pending business is the omnibus appropriations bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. I thank the Chair.

Mr. President, the Senate now has, as the Chair has indicated, under consideration the fiscal year omnibus appropriations bill which will conclude our action on the six fiscal year 1997 appropriations bills that have not been enacted into law, and they are: No. 1, Commerce, Justice, State, and related agencies; No. 2, the Defense appropriations bill; No. 3, the foreign operations appropriations bill; No. 4, the Interior and related agencies appropriations bill; No. 5, the Labor-HHS appropriations bill; and No. 6, the Treasury-Postal Service appropriations bill.

As Senators are aware, members of the House and Senate Appropriations Committee and their staffs worked around the clock at the end of last week to reach a bipartisan agreement with the administration on all the outstanding issues included in these bills. Our colleagues in the House adopted this bill Saturday by an overwhelming rollcall vote of 370 to 37, and the President has indicated he will sign the bill as soon as it reaches his desk.

I know that many Senators have questions and concerns about this legislation. Senator BYRD and I will be here throughout the day to address those matters as best we can. I hope and expect that when we reach a vote on final passage later today, a large majority of the Senate will vote for this legislation.

Mr. President, this will be the last appropriations measure that I will manage here on the Senate floor. For the past 16 years as chairman or ranking minority member of the full committee, I have stood here with Senator BYRD, Senator Stennis, and Senator Proxmire as we have brought to the Senate the 13 annual appropriations acts, supplementals, rescissions bills and continuing resolutions. It has been an extraordinary experience. The appropriations process has been the crucible of debate on enormous range of issues, great and small. We have carried on through the revolutionary 1981 reconciliation process, the Gramm-Rudman-Hollings Act, budget summits, and Government shutdowns. Despite it all, year in and year out, this Congress has acted on appropriations bills and sent them to the President. It is our principal constitutional duty to do so.

Mr. President, I cannot adequately express how honored I am to have been a part of this process. I owe an enormous debt to all of my colleagues with whom I have served, both here in the Senate and in the House. I am privileged to have enjoyed relationships across the aisle in both bodies that have immeasurably enriched my life, and I can only hope that I have managed to return those gifts in some way.

All of us on the Committee on Appropriations, both here and in the House, are served by an extraordinary staff. These highly capable men and women are the best there are. Before I leave Washington for Oregon later this month—I started to say later today; that perhaps is only wishful thinking at this moment—I hope to be able to thank each one personally for their contributions.

It would be impossible, Mr. President, to make a comprehensive recitation of the provisions of this legislation, and I will not try. I believe that this bill, which I hold in my hand, represents our completed product which is, obviously, a rather enormous package. I believe that various summary descriptions have been distributed. The text of the legislation is printed in the RECORD and copies are available here on the floor and in cloakrooms and in Senators' offices.

Mr. President, I wonder if the Senator from Alaska will respond to a request that he amend his unanimous-consent agreement to be recognized following my brief presentation in order to permit the ranking member, Senator BYRD, to make his opening statement as well.

Mr. STEVENS. I have just conferred with Senator BYRD, and I agree. I do amend my request that I be recognized after the Senator from West Virginia completes his statement.

The PRESIDING OFFICER. Is there objection to the amended request? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I will yield the floor, but before I do so, I, again, want to personalize my remarks, Senator BYRD being on the floor, to say that this was a joint effort. And with Senator BYRD's vast background and expertise in the procedures of the Senate, the history of the Senate, the legislative role of the Senate, I, again, express my deep appreciation for his collaboration, his cooperation, his spirit of friendship, and the demonstration of that friendship day in and day out in achieving our mutual responsibilities to bring this bill to the floor, like all previous bills.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Oregon, [Mr. HATFIELD], who is here today managing his last appropriations bill. I will have more to say during the day, I am sure, on that line.

The bill now before the Senate contains the results of very intense and difficult negotiations over the past week, and particularly over the past weekend, between the two Houses, with the administration participating with advice and suggestions. These negotiations included not only the chairman and ranking members of each of the affected Appropriations Subcommittees, but also the representatives of the House and Senate Republican and Democratic leadership, as well as the President's very able Chief of Staff, Leon Panetta, and the Director of the Office of Management and Budget, Frank Raines, and their staffs.

As Senators are aware, these negotiations were necessary because of the inability of Congress and the administration to reach agreement on six of the thirteen fiscal year 1997 appropriations bills. Over the past months, the President indicated that he would not agree to sign these appropriations bills unless funding for a number of priorities was increased by some $6.5 billion and unless certain controversial legislative riders were dropped.

And so, we found ourselves in Congress faced with having to deal with the President s requests in a very short period of time if we were to reach agreement on the six remaining appropriations bills by the beginning of fiscal year 1997, which starts at the hour of midnight.

In addition, the administration proposed a number of urgent appropriations, including some $1.1 billion to fight terrorism and improve aviation security and safety, as well as over $500 million in firefighting assistance for Western States and $400 million to assist the victims of Hurricanes Fran and Hortense.

Mr. President, I congratulate all of those Members and staffs who have worked literally around the clock over the past week, and certainly over the past weekend, in order to reach this agreement and have it prepared for consideration in the House on Saturday evening when it was agreed to, and by the opening hours of this day here in the Senate. I particularly wish to recognize the efforts of the chairman and ranking member of the House Appropriations Committee. Mr. Livingston has proved himself to be a very able and articulate chairman—and I have enjoyed immensely the opportunity to work with Mr. LIVINGSTON—he along with his equally able ranking member, Mr. OBEY.

If there were not a DAVID OBEY in the Congress, Congress would have to create one. He reminds me, in a way, of that irascible Senator McClay who was a Member of the first Senate when it met in 1789. Mr. OBEY is very knowledgeable and extremely able. And so both of these men, Mr. LIVINGSTON and Mr. OBEY deserve great credit for their work on this resolution.

They, together with my dear friend and colleague, the Senator from Oregon, who is the chairman of the Senate Appropriations Committee, Mr.

HATFIELD, deserve the lion's share of the credit for this agreement.

I know that Senator HATFIELD, as would I, would have preferred to have had each of the fiscal year 1997 appropriation bills enacted separately rather than having them conglomerated into this massive omnibus bill. Senators should not be placed in the position that we find ourselves in at this moment. We should not be backed up against the wall here on the last day of the fiscal year, facing a Government shutdown unless we adopt this massive resolution. No Senator, and I dare say no staff person, has had the time to carefully review the thousands of programs funded in this resolution, or to read and comprehend the many non-appropriations, legislative matters contained in this resolution. What we are faced with is having to rely on those members and staffs in the House and Senate with jurisdiction over each of the provisions in this resolution. To my knowledge they, along with the Office of Management and Budget and other executive branch personnel, have approved each item and provision in their respective areas.

While I applaud the efforts of all those who have worked so hard on this measure, I nevertheless abhor the fact that it, once again, has come to this. We must redouble our efforts in future Congresses to get our work done, despite the very real differences among ourselves and with the administration. The leaders of the Senate have almost impossible burdens in meeting the requests of Senators throughout every session. I urge my colleagues, on both sides of the aisle, to commit themselves to working with both leaders in ways that will enable the next Congress not to have to consider such massive, omnibus legislation as the one now before the Senate.

Mr. President, as the distinguished chairman of the committee, Senator HATFIELD, has stated, this resolution contains the necessary appropriations for fiscal year 1997 for each of the six remaining appropriation bills which have not yet been enacted into law. Namely, Title I of the resolution provides the fiscal year 1997 appropriations for the following appropriation bills: Commerce/Justice/State/ and the Judiciary; Department of Defense; Foreign Operations; Interior; Labor-HHS; and Treasury Postal.

Titles II, III, and IV of H.R. 4278 contain legislation that results in offsets totaling some $3.3 billion. Those provisions include so-called BIF–SAIF; SPECTRUM sales; and certain PAYGO savings.

Title V contains other appropriations for various departments and agencies totaling some $850 million, as well as a number of general provisions.

Finally, I should note that division C of the resolution contains the agreement on immigration reform.

Chairman HATFIELD has highlighted the important priorities contained in this resolution and, therefore, I will not repeat them.

I hope that the Senate will proceed expeditiously and that we may be able to complete action on this measure in time to send it to the President for him to sign before the hour of midnight. I shall have more to say, of course, during the day.

I thank the distinguished Senator from Alaska [Mr. STEVENS] for his characteristic courtesy in yielding to me, and I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have the greatest respect for the chairman and ranking member of our full committee, the Appropriations Committee. I certainly do apologize to them for seeking the floor ahead of them, because I knew they were coming. But I wanted to make certain that I did retain the right to alert the Senate to a very difficult problem as we proceed to consider this bill.

First, let me say I know that this is the last bill to be handled by the Senator from Oregon. He and I went on the Appropriations Committee on the same day. I have sat beside him for so many years now working on matters affecting appropriations, and we have both served with the distinguished Senator from West Virginia in a way that most people would never understand.

There is a deep friendship among those of us who worked through long nights trying to figure out how to solve the problems of keeping this Government going and at the same time pursue the objectives of policy enunciated by our leaders. It is not an easy thing.

Both the Senator from Oregon and the Senator from West Virginia have spent many more hours in conference on this bill than any other member of the Appropriations Committee, and they certainly deserve our great respect and thanks for all the work they have done to get us to this point.

As the Senator from West Virginia just said, this bill absolutely must be signed tonight. It is our intention to see to it that that takes place. I do give both the Senator from Oregon and the Senator from West Virginia great credit for what they have done and the manner in which they have handled this bill.

As a postscript, I also say I certainly do agree with the Senator from West Virginia—and I think the Senator from Oregon does too; I know he does—this is not the way to handle appropriations bills, and we must find a way to deal with our procedure to assure that bills from appropriations committees, that each bill is considered on its own merits and it goes to the President in a way that expresses the will of the Congress, and the President can express the will of the executive branch. Under our traditional system of checks and balances, that must be preserved in order to assure the freedom of this country. So I intend to work with the Senators to achieve that goal. I do, again, apologize to them for seeking the floor ahead of them because I know they are entitled to present their positions in the very beginning.

CONFERENCE REPORT TO ACCOMPANY THE FEDERAL AVIATION AUTHORIZATION ACT OF 1996

Mr. STEVENS. Mr. President, I come to the floor today to again address the question of the failure to approve the conference report on the aviation trust fund. This is the Federal Aviation Authorization Act of 1996.

Mr. President, the bill before us contains the funding for the Government. We have already dealt with the appropriations for transportation. But the conference report on the Aviation Authorization Act for 1996 contains the authority to spend the money. There currently is just $50 million, out of a $1.46 billion program, left after today to continue the work of the modernization of our airports and airways. We have worked now 2 years—a bipartisan group—to try and improve the safety and security of the Federal aviation system.

I give great credit to the chairman of the Commerce Committee, Senator PRESSLER, the ranking member, Senator HOLLINGS, and to the chairman of the aviation subcommittee, Mr. MCCAIN, and the ranking member of that committee, the distinguished Senator from Kentucky, Mr. FORD. We have, many of us, had differences of opinion on the bill. But we found a way to work it out. This bill is absolutely necessary now to proceed to strengthen the safety and security of the aviation transportation system. I am here this morning to again serve notice to the Senate that this bill must be passed before we adjourn sine die. Again, let me say, there is only $50 million left in this fund that can be expended after today.

What we are looking at, Mr. President, is a bill that has been crafted in order to meet some very important objectives of people who are very much involved with the issues of aviation safety. Let me point out, for instance, that just this past week we, once again, had a hearing with regard to the rights of those people who are survivors of victims of air disasters.

Mr. SIMON. Will my colleague yield?

Mr. STEVENS. I am not prepared to yield during this statement, Mr. President. I don't intend to take much time. I want to alert the Senate—and I know the Senator from Illinois has a matter he wishes to bring up that is quite similar to what I am talking about. But I would like to finish my statement.

We had Victoria Cummock, a survivor of a victim of the Pan Am crash. She has done a great deal to alert families who have been similarly affected of the need for Federal legislation to deal with family assistance to those that are affected by these crashes, the survivors of the victims of the crashes.

One of the things they asked us to do was to pass House bill 3923. And as I said at the hearing, I don't intend to get too personal about this, but I personally know something about victims of air crashes. I know that it is necessary for us to wake up and make sure that the Federal law does assure assistance to families of passengers involved in aircraft accidents. This bill does that. The aviation bill does that.

The bill that is in the conference report that is being held up now over one provision in the bill. It requires the Chairman of the National Transportation Safety Board to designate and publicize the name and phone number of a director of family support services to designate an independent nonprofit organization, such as the Red Cross, to assist in the taking of responsibility for coordinating the emotional care and support for those families. It has a substantial designation of assistance, such as providing mental health and counseling services, to provide it in the environment in which families may grieve in private, meet with families, communicate with families as to the role of Government agency, and arrange for a suitable memorial service after consultation with the families.

It is a bill that is absolutely necessary, as we think of the number of families that have been affected by these air carrier crashes. It will provide that unsolicited communication concerning a potential action for personal injury can't be made before 30 days after the accident. It does have a requirement that the air carrier submit plans to address the needs of families if their aircraft is involved in an accident. There is absolute necessity for this bill to pass. It establishes a task force within the Department of Transportation to assure that this will be done.

Mr. President, my main reason for addressing the issue, though, is the problem of safety at our airports. The Aberdeen, SD, runway has almost closed for safety reasons. It has no carryover money. It has to have this bill passed today so that money will be available tomorrow. In my capital city of Juneau, we have a wind shear problem. It has recently developed that the FAA wishes to change the takeoff requirements and will not allow a plane to take off until they can prove there are no wind shears in the community.

We have in this bill the authorization for the money to take wind shear equipment to Juneau. This is just one of the items. In Massachusetts, for instance, as a result of formula changes in this bill, the Commonwealth of Massachusetts will receive $3.5 million more under its entitlement, which is nearly $1.4 million greater than what it gets now. But its Boston airport entitlement and Nantucket entitlement both increase. In the State of Wisconsin, they would have an apportionment of $1.9 million more in entitlement for the airports. In Wisconsin, for instance, Madison's airport—a very interesting area—needs the money to proceed with the improvements to their airports. This bill is not only airports, but we are talking about security provisions.

We have changed, as a result of the bill that I wish to have brought up and passed today, the provisions for the authority to check criminal records for security screeners at airports; given new authority for the FAA to facilitate interim deployment of advanced aviation security technology, including the explosive detection equipment that we must have. They can make and will make vulnerability assessments of every airport in the country, and they are going to deal with new ways to develop passenger profiling. But above all, they are going to have the national academy of science work on the explosive detecting and aircraft hardening technology.

This bill cannot wait until we get back next year and organize and get around to passing bills. It would be, roughly, February 15, at the earliest, before that could be done. Under the essential air service, which is absolutely essential to maintain transportation in my State and many of the Northern States, funds could not be taken from the trust fund if this bill does not pass. There is only a 1-month carryover, which means that all of our planes that are involved in essential air service will be grounded before December if this bill does not pass.

This is the most critical bill that I can think of in terms of aviation safety. I have a whole list of items here that deal with the security requirements that are funded by this bill. Huntsville, AL; Fort Lauderdale; Fort Myers; Orlando; St. Petersburg; in Atlanta, Savannah; Valdosta, GA; Lexington, KY; Greensboro, NC; Wilmington, NC; Chattanooga, TN; Nashville, TN; in Illinois, the Springfield capital security fencing is absolutely required that it be fixed. That money is not there unless this bill passes today. It will not be there until the second quarter of the fiscal year, at the earliest.

In Minnesota, there is a firefighting building provided for. I believe that is very much associated with security.

When we go through all of these, Ohio has the largest number of security requirements in the country that are funded by this bill. In Racine, WI, there are obstructions on the field that must be removed. It has one of the highest priorities in the country to deal with this.

I made a mistake; I said Ohio had the highest number. California has the highest number of security requirements and facilities that are funded by this bill.

Mr. President, the question comes down to, "How can we get this bill up?" There are ways, Mr. President, that we can delay the present bill until the FAA bill is brought up. I do not want to do that. I appreciate, as I have already said, the work done by the leaders of our Appropriations Committee, and the joint leadership of the Congress, to see to it that there is no hiatus in funding in terms of our National Government at this time.

But the FAA bill comes before us when the country has been rocked with aviation tragedies. ValuJet is just starting to fly today. That reminds all of us of the tragedy in Florida. We still have the unexplained TWA Flight 800. We have all kinds of speculation concerning that. In the wake of the tragedy, the White House had a commission chaired by the Vice President. Many of those recommendations are in our bill. We have added to them considerably.

But, clearly, the explosive detection devices are No. 1 in regard to our joint effort to find a way to upgrade our security at our Nation's airports.

Mr. President, there is a small group of Senators that are delaying this bill because of one provision. It is just as easy for them to come in here next year and repeal that. That will not be difficult. If they have the votes to repeal it, they can repeal it next year.

The idea of delaying the safety of the Nation over one amendment—I must say, it was an amendment offered on the other side of the aisle, which most of us on this side of the aisle supported, but it is a provision that corrects a technicality in the law. And the law that was passed by Congress, as I understand it, was a mistake in the law.

But, in any event, why this bill? Why can't these Senators find a way to meet their objectives without putting the Nation's safety at risk?

I want the Senate to know that if this bill does not pass, I am going to see to it that the survivor of every victim gets the personal telephone number of the people that oppose this bill. I urge people involved in this victims' rights committee to get on the phone and call these people right now.

There is no reason for this delay. We have tried our best to work out a problem here with regard to aviation safety, and it is the basic problem which brought us to the point that we are here today; that is, that we were in disagreement as to how to finance future additions to the trust fund. There was no dispute among Members of the Senate over what we had to do to meet the security requirements, or what we had to do to find a way to increase funding. It was as to how we were to do it.

We have had disagreements whether we should have taxes, or whether we

should have a new entity that replaces the aviation trust fund, or whether we should have new fees and find new funding mechanisms. The question was not whether we needed more money to modernize our system and improve safety, and particularly deal with the increased terrorist threat. The question was how to get that money. That is a separate issue, but it is not the issue that is delaying this bill.

What is delaying this bill is about three sentences in the bill that deal with an error which was made in the ICC bill passed through the Congress. I understand that some people are very disturbed about that. I have heard from some people in my State who are very disturbed about that. But my answer to them has been, look, this bill means Juneau will reopen. This means that the people who are in these areas where the money will run out will not face a closure of their airports as Juneau has been placed—it means that the essential air services will continue. And we will not have to notify the people in 170 villages in my State that, "I am sorry, you can't have Christmas transportation because the money has run out. Two or three Senators objected to a bill."

There is a procedure here, Mr. President, so that we can continue. I ask the leadership to join together and notify us. We will stay in session until we pass the FAA bill. A procedure has to be followed. It is a cloture procedure. It can take a series of days, and it will be a severe inconvenience to many Senators. But what is inconvenience to the Senators as compared to having additional crashes in this country?

I usually don't speak—I do speak loudly and angrily, but I do not speak with such personal involvement, Mr. President. I cannot conceive that anyone would stand in the way of passing legislation that might—I can't say it will, but it might—lead to the installation of safety equipment which would prevent an aircraft crash in this country.

I intend to be back and back. I seek the assurance of the leadership that we will stay in session to pass this bill. It means tomorrow, Wednesday, and probably Thursday before we can get it done. But this Senator is prepared. And I am a candidate. I would like to go home. I am prepared to stay here as long as it takes to convince these Senators that we have the authority in our rules to go around two or three Senators to get a bill passed. It may well be that.

I also urge leadership not to accept the objection of any absent Senator. Two of these Senators are not here, and they are sending in objections. I am going to start reading off their names the next time. If I have to come to the floor, starting tomorrow I am going to talk about the Senators personally who are obstructing the passage of a bill that is absolutely necessary in the interest of the safety of this country.

Mr. DORGAN. Will the Senator yield?

Mr. STEVENS. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SIMON. Mr. President, if I may have the attention of my colleague from Alaska, I agree with 99 percent of what he had to say. What happened, Mr. President, is that in conference on this very vital bill—and the Senator from Alaska is correct when he says this is a vital bill—in conference, a matter where the Congress injects itself into a labor-management issue of one corporation, an amendment that was defeated 10 to 10 in Appropriations Committee when it came up.

Mr. STEVENS. What was that?

Mr. SIMON. This is the labor-management issue that was added on. And just so there is no misunderstanding, Mr. President, I will introduce for myself and Senator KENNEDY the FAA bill with this provision stripped. I am just going to leave it at the desk. I am not asking unanimous consent to move it ahead.

Clearly, this ought to pass, but we should not at the last minute with using the cover of FAA inject ourselves into a labor-management issue that has been rejected by Congress before, and all of a sudden in the last minute we are trying to get it passed. That is not the way to do things. We ought to have hearings. If Congress wants to get in the middle of this labor-management fight, let us do it after hearings; let us do it very, very carefully.

Several Senators addressed the Chair.

Mr. DORGAN. Will the Senator yield to me?

Mr. SIMON. I am pleased to yield to my colleague from North Dakota.

Mr. DORGAN. Mr. President, there are a couple of ways for the Senate to resolve this issue. One is a cloture vote that prevails, and the other is for the provision that is currently in the legislation to be withdrawn.

I want to point out that the Congress, in my judgment, does not have the luxury of adjourning and leaving this session of Congress not having resolved this issue.

Mr. SIMON. I agree with my colleague.

Mr. DORGAN. I agree with the Senators from Alaska and Illinois, and others who are dealing with the question of aviation safety and aviation security. We have worked on this bill for a long, long while.

This bill is critically important. Whatever needs to be done must be done, because I am joining the Senator from Alaska and others to prevent the Congress from finishing its work if they believe that they can allow this Congress to end its session without advancing this bill. This bill needed to be done this year. It must be done now. Whatever can be done to resolve this issue has to be done soon.

I heard the Senator from Alaska on Saturday come to the floor. I also spoke a bit on this. I talked to Senator LOTT, the majority leader. I have talked to the minority leader. I visited with Senator MCCAIN this morning, who has a role in this. I visited half a dozen times with Senator WENDELL FORD of Kentucky.

We must solve this problem. The failure to do so will mean that this will not be a very orderly ending to this session because this involves the safety and security of the people who fly in this country. This Congress cannot end its work without solving this issue.

Mr. SIMON. Mr. President, I could not agree more with the Senator from North Dakota. The question is, Are we going to take some amendment that was not either in the House bill or the Senate bill where we move in and say we are going to take sides in a labor/management dispute? I frankly do not know whether the corporation or the labor union is right. But I do not think we ought to be moving ourselves into the middle of this thing. So, Mr. President, I offer this bill on behalf of Senator KENNEDY and myself.

The PRESIDING OFFICER. The bill will be received.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I certainly will yield to the Senator from Arizona, but I just want to say passage of that bill will kill the bill. The House is not in session.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, let me express my deep disappointment that the Senator from Illinois would do this at this time. I am a great admirer and friend of the Senator from Illinois, but I am telling you, I say this in all candor to the Senator from Illinois, you are putting in jeopardy the very lives of American citizens who fly on airlines today. You know that this was a simple mistake, a drafting error, in the Interstate Commerce Commission Termination Act of 1995 that is being corrected here. That is why the Senator from Kentucky, the Senator from North Dakota, the Senator from South Carolina, and all of us on the committee literally unanimously supported this amendment.

I say to the Senator from Illinois, you are going to cause grave danger

not only to American citizens, the men and women and families who will be making use of the airlines as passengers both domestically and internationally, but you will also prevent the much-needed funding for airport improvements and security all over America including the State of Illinois. I'm talking about over $9 billion annually for 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 and on.

In fact, I will show the Senator from Illinois—and I will be glad to yield to him for a response. The Senator from Illinois should understand that in his State there is over $25 million in funding for improvements in the aviation system in his State which is badly needed. I do not believe there would be that $25 million, over $25 million, in improvements which are badly needed in his State, which he is now placing in jeopardy by not allowing this aviation funding bill to go forward.

I understand the clout that labor has on that side of the aisle. I understand that. I have seen it. I understand it. I know it. I am seeing it today in the form of a lot of television commercials that are being run all over the country in opposition to some of my friends on this side of the aisle. But I say to the Senator from Illinois that he is making a very serious mistake here. The Senator from Illinois has had a very distinguished career in the Senate. As I said, he has my true respect and friendship, and it is clear he has the respect of all our colleagues. The little thing we did with the bow ties the other day here in the Senate Chamber was a graphic demonstration of the enormous affection in which we hold the Senator from Illinois.

I ask the Senator from Illinois—and I will be glad to yield to him without losing my right to the floor in just a minute. I urge the Senator from Illinois not to get out in front on this. This is the Senator from Massachusetts doing; we all know it. We know it is the Senator from Massachusetts, Senator KENNEDY, who is leading the opposition to this. If the Senator from Massachusetts wants to come to the floor and deny that, I will be more than happy to yield to him for those purposes. But I urge the Senator from Illinois to understand that what we are talking about here is airline safety, airport security, ensuring that our Nation's airports will be adequately funded, and most important providing 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. I say to my friend from Illinois, that is what is so important in the FAA reauthorization bill—that is what is in this bill. We are talking about the aviation safety and the lives of American citizens, millions and millions of whom are using our airlines each and every day. In fact by the year 2002, more than 800 million passengers per year will be flying the Nation's skies—a 35-percent increase over today's levels. We are also talking about much-needed funding for the State of Illinois, the State of Arizona, the State of Kentucky, the State of Alaska, the State of South Carolina, the State of Massachusetts, and others.

I also wish to remind the Senator from Illinois that in the FAA reauthorization conference, the amendment was proposed by the Senator from South Carolina, Senator HOLLINGS, not by myself or the Senator from Alaska, Senator STEVENS, but it was Senator HOLLINGS, strongly supported by Senator FORD, who I think is unequaled in his advocacy for the people he represents. I think it would be a serious mistake for you to continue in your opposition to this critical aviation safety legislation.

Mr. President, I ask unanimous consent to yield the floor to the Senator from Illinois without sacrificing my right to the floor.

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

Mr. SIMON. Mr. President, as my colleague from Arizona knows, I have great respect for him and the significant contribution he has made in so many areas. Everything he says about the necessity for passing this bill is correct. But what we are doing in this labor-management provision is bypassing the committee of jurisdiction.

I remind the Senator from Arizona—I do not think he was here when I mentioned it—this particular amendment was tried on the Appropriations Committee, was defeated in a 10 to 10 vote in the Appropriations Committee. It is a matter of real controversy. It injects the U.S. Congress into a labor-management dispute. I do not know which side is right, but I know that the committee of jurisdiction has not had a hearing on this; that the committee of jurisdiction has not acted, and all of a sudden we are adding this amendment.

I do not think that is the way we ought to legislate. As far as my friend from Alaska saying the House is not in session, the House continues to be in session. They are not going to have any more votes. If we pass this without this amendment, it will clear in the House without any objection whatsoever. The Senator from Arizona knows that. The question is not whether the FAA bill should pass. The question is whether it should pass while we insert ourselves into a labor-management dispute that maybe someone in the Chamber knows more about than I do. I do not know that much about it. But I do not think we have any business getting ourselves in the midst of that thing.

I thank my colleague for yielding.

Mr. FORD. Mr. President, will the Senator from Arizona allow me to ask the Senator from Illinois a question without his losing his right to the floor?

Mr. MCCAIN. Mr. President, I make that request.

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

Mr. FORD. I say to my friend from Illinois, is he aware that this piece of legislation, on this amendment he is referring to, was in the ICC statutory provisions prior to the reorganization and putting ICC in the Department of Transportation?

Mr. SIMON. Mr. President, I have to tell you I do not know much about the history of this at all other than I know we are injecting ourselves into this labor-management dispute, which we should not be doing.

Mr. FORD. In the legislation also, I say to my friend from Illinois, there is a statement which says that it shall not be narrowed or broadened; it should remain the same. With that language as it relates to the transfer of ICC, that means everything will stay the same. The bill would not have gotten out of conference, in my judgment, if this amendment had not been on it. Now we find, with an amendment on it, it may not get through Congress. So all of us were in a catch-22 position. But it is very obvious from the legal aspects—I am not a lawyer, but I am on the jury—all of the legal experts say that the express part of the ICC has been used, has been used several times, has been tested.

So leaving this out of the legislation is what persuaded some of us to try to be helpful. I want to get the bill passed. I understand that. But I think you will find that the scorched Earth policy is one that will just keep us here for a while. The Senator from Alaska, even though he is a candidate—he is up for reelection—is willing under the circumstances to encourage his leadership for us to stay here.

The point is, does the fight get completed in a reasonable time or do we have the fight prolonged? I hope, if we are going to have the fight, that the Senator and his colleagues, the two or three others, whatever number it might be, give us an opportunity to have a cloture vote tomorrow and proceed with the passage of this legislation or the defeat of it. I hope he will get in that posture so we can do these things the bill purports to do and we can go on home.

I thank the Chair, and I thank my colleague from Arizona.

Mr. SIMON. If my colleague will yield for 1 minute.

Mr. MCCAIN. I ask unanimous consent to yield to the Senator from Illinois without losing my right to the floor.

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

Mr. SIMON. I am not trying to obstruct this thing. I hope we can work out a reasonable answer. I think the reasonable answer is that this piece of labor-management legislation ought to be considered by the Labor and Human Resources Committee when the Senate comes back into session, not stuck on a bill that was neither in the House nor the Senate. All of a sudden we are injecting ourselves. I do not think that is the way to legislate.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I finally ask unanimous consent to yield to the Senator from South Dakota for 1 minute without losing my right to the floor.

Mr. PRESSLER. Mr. President, I want to commend the Senators from Kentucky and Arizona for their great efforts and to say I will certainly stay here as long as it takes to pass this bill.

This bill is critical to pass. In my little State of South Dakota, for example, we have all the essential airport funding, we have the Federal Aviation flight service, and small States that have small airports depend on the airport trust fund. This will be a disaster to air safety across the United States. It will be a disaster to everything we have been talking about since the major air crashes that have occurred, if we cannot pass this bill.

I am privileged to chair the Commerce, Science, and Transportation Committee. Our committee, on a bipartisan basis, on a motion from our ranking member, agreed to this amendment. It was a bipartisan effort. We must pass this bill. We have worked it out in our committee. It was a long-fought, hard-fought bill, and we must pass it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the Senator from South Dakota, the distinguished chairman of the committee, without whose leadership and without whose enormous efforts we would not be where we are. Have no doubt, Mr. President, about the magnitude of this bill. In less than 14 hours the Federal Government's authority to provide critical funding to airports across the country and our national air transportation system, including safety and security, will expire, unless we pass the FAA reauthorization bill.

Before the Senator from Kentucky leaves, I wish to thank him for everything he has done. His efforts are inspiring to us all.

You know, Mr. President, the lesson in this legislation is that without bipartisan effort, including working with the Administration, especially Ms. Linda DASCHLE, the Deputy Administrator of the FAA, we would not have this legislation before us. It was truly a pure, bipartisan effort, a product of 2 years of hard work, compromise, and literally hundreds and hundreds of hours of meetings. I believe that we cannot—we cannot allow it to be derailed at this time. This would be unconscionable.

To start with, I want to correct my previous statement to the Senator from Illinois. I am sorry he has had to leave the floor. I was wrong in $25 million. The real number is, for the State of Illinois is more than $30 million which will be authorized for the State of Illinois. Specifically: $9 million is for Chicago O'Hare Airport, $1.8 million is for Chicago Midway Airport, $1.1 million is for Quad-City Airport in Moline, $860,000 is for greater Peoria Airport, $690,000 is for the University of Illinois in Champagne/Urbana, $670,000 is for the Capital Airport in Springfield, $525,000 is for Bloomington Airport, $500,000 is for Greater Rockford Airport, $500,000 is for Decatur Airport, $500,000 is for Merrill C. Meigs Airport in Chicago, $500,000 is for Quincy Municipal Airport, $500,000 is for Williamson County Airport in Marion—the list goes on and on.

I ask unanimous consent that the primary airport projects for fiscal year 1997 that will require entitlement funding for the State of Illinois, which is now being placed in jeopardy, be printed in the RECORD.

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

Rank and LOCID	Airport	City and State	PFC	1997 final entitlements after adjustments (Est.)	Conference
1 ORD	Chicago O'Hare International	Chicago, IL	#	$8,725,060	$8,615,751
39 MDW	Chicago Midway	Chicago, IL	#	1,656,606	1,824,208
146 MLI	Quad-City	Moline, IL		849,849	1,061,523
171 PIA	Greater Peoria Regional	Peoria, IL		688,534	860,028
203 CMI	University of Illinois	Champaign/Urbana, IL		552,236	689,783
209 SPI	Capital	Springfield, IL		533,829	666,791
233 BMI	Bloomington/Normal	Bloomington/Normal, IL		416,576	520,333
239 RFD	Greater Rockford	Rockford, IL		400,297	500,000
321 DEC	Decatur	Decatur, IL		400,297	500,000
329 CGX	Merrill C. Meigs	Chicago, IL		400,297	500,000
368 UIN	Quincy Municipal Baldwin	Quincy, IL		400,297	500,000
399 MWA	Williamson County	Marion, IL		400,297	500,000

Mr. McCAIN. Let us also be very clear. According to the Senate Finance Committee, absolutely no money can be spent out of the aviation trust fund without passage of this bill. Title X of the bill provides authority for money to be spent out of the aviation trust fund. That means—I want to repeat for the benefit of my colleagues—no money for aviation safety; airport security; air traffic control repair, maintenance, and modernization; repair and construction of runways, taxiways, and other vital aviation infrastructure, the purchase of firefighting equipment at our airports, Terminal Doppler Weather Radar, Airborne Collision Avoidance Systems, and research and development of new explosive detection equipment, can not be spent without this bill being passed. There is a great deal at stake here.

I emphasize, again, this is not a partisan bill. This is a bill that was worked out with the full cooperation of the administration, including the White House, the Department of Transportation, the Federal Aviation Administration, the National Transportation Safety Board, the Office of Management and Budget, the Department of Defense, the Environmental Protection Agency and others—a partnership with Senator FORD, Senator HOLLINGS, and the chairman of the committee, Senator PRESSLER. But I say to my colleagues that we will not make very critical and vital changes to aviation safety and security and thorough reform of the FAA unless we pass this bill.

Again, I point out that the technical correction amendment, which was put on the bill by the Senator from South Carolina, Senator HOLLINGS, in conference, was to correct a drafting error in the Interstate Commerce Commission Termination Act of 1995, that is acknowledged to have been a mistake and nothing else. It should have been included in the original ICC bill.

Let us have no illusion about what is going on here. What is going on here is that organized labor is flexing their muscles so they can prevent a technical correction which is being made to correct a drafting error that was made in previous legislation. Let us have no doubt—no doubt at all what we are talking about here.

Mr. President, I think it is important that we talk about what is being included in this bill as far as aviation safety and security is concerned. It ensures that the FAA and our Nation's airports, as I mentioned, will be adequately funded. I'm talking about over

$9 million annually for national aviation related needs such as air traffic control. But some of the other critical aspects of this legislation are that it directs 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.

I think we know the problems associated with the recent TWA 800 explosion in New York and the ValuJet crash in Miami and how mishandled the notification was to the families in these tragedies. We need to correct that now. We do not need to wait until next year or the year after. We need to correct the problem, and we do it in this legislation.

This legislation will enhance airline and air travelers' safety by requiring airlines to share employment and performance records before hiring new pilots.

We do this in this bill. We found out, in a previous accident of an American Airlines commuter aircraft, that a pilot did not have adequate training of the kind that was necessary to make sure that the lives of the passengers were not endangered. Indeed, they were all killed. One of the reasons, in the conclusions of the National Transportation Safety Board, was that American Airlines did not have sufficient access to their employment and performance records from a previous employment with another airline.

Additionally, this legislation will make sure that the FAA gives high priority to implement a fully enhanced safety analysis system, including automated surveillance. It bolsters weapons and explosive detection technology through research and development. It improves standards for airport security, passenger baggage and property screeners, including requiring criminal history records checks. It requires the FAA to facilitate quick deployment of commercially available explosive detection equipment. It contains a sense of the Senate on the development of effective passenger profiling programs. It requires the NTSB and the FAA to work together to develop a system to classify aircraft accident and safety data maintained by the National Transportation Safety Board and publish such data. The American public deserves to know what the safety record is of the airline that they fly on. That is part of this bill.

It requires all air carriers and airports to conduct periodic vulnerability assessments of security systems. It requires the FAA and the FBI to carry out a joint threat and vulnerability assessments every 3 years. It authorizes airports to use project grant money and passenger facility charges for airport security programs. It 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. This is just a few of the many safety and security related items that this legislation does.

I do not think there is anybody who believes that the present airport security procedures are adequate. That is not a conclusion that I reach; it is the conclusion that every outside aviation expert makes. There have been many hearings in the House and the Senate regarding this. Mr. President, we have to move forward with these critical safety and security provisions now.

Who should be responsible for airport security? I think it is very clear that it should not be the airlines. The bill requires the National Transportation Safety Board to take action to help families of victims following commercial aircraft accidents, as I pointed out earlier. How can anyone in this body wish to stop this legislation from going forward.

Let me just read, since we are talking about labor unions, since that is what is holding up this bill. I have a letter which was addressed to me from the National Air Traffic Controllers Association, which is a member of the AFL–CIO.

DEAR MR. CHAIRMAN: The National Air Traffic Controllers Association (NATCA) supports the personnel reform language contained within. * * * The Air Traffic Control system continues to crumble and the safety of the system is in the balance. Your bill provides the funding stream necessary to modernize the system that is need of repair.

[This bill] provides for continuation of collective bargaining agreements, representational status for NATCA and other unions and provides for the duty to bargain in good faith. Your bill allows the employees who will have to live and work under the new system the ability to develop the system. Thank you for drafting a bill which will provide the necessary reform to modernize the FAA and make it more responsive to the users.

Signed by Mike McNally, the executive vice president of the National Air Traffic Controllers Association.

This flies in the face of what some segments of organized labor are trying to do today in derailing this critical aviation legislation. I was pleased to have the opportunity of working with the National Air Traffic Controllers Association and those dedicated and outstanding men and women who sometimes operate under conditions of the most severe stress imaginable.

Here is a letter from the National Transportation Safety Board to Chairman PRESSLER. I will not read the whole letter. I ask unanimous consent that the letter, and the previous letter from the National Air Traffic Controllers Association, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION MEBA/AFL–CIO,
Washington, DC, November 9, 1995.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: The National Air Traffic Controllers Association (NATCA) supports the personnel reform language contained within S. 1239. The association believes that providing the exclusive bargaining representatives with full bargaining rights over the development of a new personnel system provides a fair platform that will benefit the agency, the employees and ultimately the users of the air traffic control system.

We are aware of other efforts in substitution of S. 1239 and fear that these attempts, with all good intentions, may further delay FAA Reform that is desperately needed at this time. The Air Traffic Control system continues to crumble and the safety of the system is in the balance. Your bill provides the funding stream necessary to modernize the system that is in need of repair. We will be working with hope that S. 1239 succeeds the mark up and are encouraging the committee members to assist in this endeavor.

NATCA applauds your efforts to reform the air traffic control system. It has been a long in coming and it took your leadership to finally make it a reality.

Your bill provides the flexibility the FAA needs to meet the demands of the 21st century while protecting the interests of the men and women who operate the air traffic control system. Union support provides for continuation of collective bargaining agreements, representational status for NATCA and other unions and provides for the duty to bargain in good faith. Your bill allows the employees who will have to live and work under the new system the ability to develop the system.

Thank you for drafting a bill which will provide the necessary reform to modernize the FAA and make it more responsive to the users.

Respectfully,

MIKE MCNALLY,
Executive Vice President.

NATIONAL TRANSPORTATION SAFETY BOARD,
Washington, DC, November 8, 1995.

Hon. LARRY PRESSLER,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR CHAIRMAN PRESSLER: It is my understanding that tomorrow the Senate Committee on Commerce, Science, and Transportation will mark up S. 1239, the Air Traffic Management System Performance Improvement Act of 1995. Although the full Board has not taken a position on this legislation, I did want to share my personal views with you.

As Chairman of the National Transportation Safety Board, I see on a daily basis the immense job the Federal Aviation Administration has to accomplish. The competition for funds during a period of tighter federal budgets, the need to anticipate and justify future staffing requirements annually, and the protracted process for procurement of new equipment, are all factors that can degrade efficiency and affect the ability of the system to respond to new demands and new technology. I believe the reforms in S. 1239 remedy this deficiency, without taking

the aviation trust fund off budget, and I hope the Commerce Committee will fully support this bill.

Many of the safety enhancing actions identified by the Board in the past have required research, development, procurement and installation programs that span several years. Examples are Terminal Doppler Weather Radar, Airborne Collision Avoidance Systems, airport surface surveillance and conflict detection equipment. Many of these programs have experienced development and installation schedule slippages. So, too, has the FAA's air traffic control system modernization programs. It is difficult for the Board to determine the role of budget planning in these slippages; however, it is obvious that the need to justify budgets and establish priorities during this period when the Federal government must tighten budgets could have an impact on significant safety programs. This bill would ensure the continuation of that funding in a fiscally responsible manner.

Mr. Chairman, we take great pride that America's aviation industry is the safest in the World. Without a predictable source of funds, there is the potential that new safety-related technical systems may be delayed, degrading that safety. The FAA, the agency responsible for the implementation and administration of these systems, believes that this bill will greatly improve the prospects for the acquisition of these critically important safety systems. I concur in their judgement on this matter.

Sincerely,

JIM HALL,
Chairman.

Mr. MCCAIN. I want to repeat what the National Transportation Safety Board is saying about this legislation, so the opponents, the ones who are trying to hold up this bill and perhaps derail it, understand what is at stake here. I want to repeat it so it is perfectly clear to my colleagues and to the American public who want this legislation to move forward.

I quote from the letter to chairman PRESSLER from the National Transportation Safety Board:

Without a predictable source of funds, there is the potential that new safety-related technical systems may be delayed, degrading that safety. The FAA, the agency responsible for the implementation and administration of these systems, believes that this bill will greatly improve the prospects for the acquisition of these critically important safety systems. I concur in their judgement on this matter.

Signed by J. Hall, the Chairman of the National Transportation Safety Board.

I am not supporting this bill because I put in 2 years of hard work with Senator FORD, Senator HOLLINGS, Senator PRESSLER, Senator STEVENS, Linda Daschle, David Hinson, Secretary Peña, Jim Hall, the National Air Traffic Controllers Association, the Air Transport Association, the Air Freight Association, and people like my friend from North Dakota, Senator DORGAN, who has played such a key and important role in ensuring not only airline safety but also the access to airline service in smaller States. Few have been a stronger supporter of the Essential Air Service Program which remains a lifeline for many small communities. This bill has the funding tools in place that will be vital for financing this program in the future.

I am not talking about all that. I have worked on other issues that took a long period of time and have failed. That has been sort of one of the difficulties I have had around here from time to time.

What I am talking about is the safety and security of all Americans. If the Senator from Massachusetts, who I am sorry is not here on the floor, wants to lead the opposition, then the American people should know whose responsibility it is that we do not pass this legislation. What a small minority finds objectionable is a correction, a technical correction, to a drafting error which was contained in the Interstate Commerce Commission Termination Act of 1995 that was passed, that everybody recognized was written incorrectly. That is what we are talking about here. If we do not pass this legislation and get it done soon—in fact, by midnight tonight, in less than 14 hours—then critical funding will be cut off to airports across the country and our national air transportation system will expire. And I fear, frankly, for what can happen in the future and, frankly, I do not want to have that responsibility.

Finally, I will probably be back on the floor on this issue. I strongly urge my colleague from Illinois, for whom I have the greatest respect and affection, I strongly urge my other colleagues to understand what is at stake here and for us to get this legislation done as quickly as possible and not worry about a small technical correction to a drafting error that is all that is involved here.

So, I will be back—I hope not to be back on this issue. But I, like my colleague from Alaska, do not intend to allow the Senate to go out of session until we have this issue resolved, and will use every parliamentary method available to me to make sure that we address this bill and pass it.

I have had a conversation with the distinguished majority leader on this issue. I know he shares my view of the importance and criticality of this legislation. I hold every hope and aspiration that we will have this issue resolved as quickly as possible.

Again, expressing my deep appreciation to all of the individuals, all of the different entities that have been involved in shaping this legislation that took us over two years, I am not about to see it derailed at this point because of a minor objection that really has very little, if any, relevance to the importance of the bill.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from California.

Mrs. BOXER. Madam President, I ask unanimous consent to address the Senate for 3 minutes, to be followed by the Senator from North Dakota for 30 minutes.

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

Mrs. BOXER. Thank you very much, Madam President.

STILL TIME TO PASS BILLS

Mrs. BOXER. Madam President, as we can all see from the conversation that has been going on here for the last hour, we still have additional business pending before the Senate. We certainly must pass the FAA bill, and I am hopeful we can do so, while resolving the one controversial area that remains. We heard the Senator from Alaska, Senator STEVENS, say the House is out of session, implying that they couldn't act if the legislation was stripped of the controversial piece. We heard the Senator from Illinois say, "Untrue, the House is still there, they could take action." We need to find out the truth, we need to find out the answer, and we need to move forward.

Madam President, we have a wonderful opportunity yet remaining in the waning hours to pass the Presidio parks bill. After much dedicated work on both sides of the aisle over in the House and with the administration on Friday and Saturday, the House passed a Presidio parks bill with many important parts for this country in it. There is only one body that has to act on this bill, and that is the U.S. Senate. If we can all agree, we can pass, by unanimous consent, this Presidio parks bill.

As I understand it, it includes many wonderful projects all over this country. It would be an environmental gift for the people of this country, and I can tell you that my leader, Senator DASCHLE, expressed to me his great interest in seeing us do it, and from the remarks of the majority leader, Senator LOTT, I feel very optimistic that we can.

From the East to the West, the North and the South, there are parts in this bill that I think we all want. Does everybody get everything he or she might want? Of course not. It is never possible. The Presidio parks bill is one of great compromise, even on the issue that I care so much about.

On the Presidio itself, we had to compromise. So I don't think any Member can say it is a perfect bill. There may be something in there you don't love, and there may be something not included in there you want included, but I think we do have an opportunity to do something for the American people and go home and be extremely proud. The Presidio Park will become a jewel of the National Park System, and the legislation encompasses a wonderful idea that really was brought to the

table from the Pennsylvania Avenue Corporation when we remodeled and rejuvenated Pennsylvania Avenue, and it is a board of trustees totally nonprofit with experts in real estate and experts in historic preservation sitting on it and overseeing it.

Congresswoman PELOSI has worked so hard on this—I used to represent the Presidio when I was in the House—as well as Congressman GEORGE MILLER, Senator FEINSTEIN, Senator MURKOWSKI, and Senator CHAFEE and many others. I do hope that we can pass the parks bill by unanimous consent, but I have asked my leader to keep us here, because I do believe if we had to vote on a cloture motion, we could carry that cloture vote, and we would overwhelmingly pass this parks bill.

Madam President, I hope we can do it quickly, but, if not, I hope we will stay here and work for the American people, resolve the FAA problem, resolve this parks bill, pass this continuing resolution and go home feeling proud that we have a safer Nation, we have a stronger Nation, and we have a more beautiful Nation.

Thank you very much. I now yield to my friend.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair.

THE CLINTON RECORD AND SENATOR DOLE'S ECONOMIC AGENDA

Mr. CONRAD. Madam President, we have now come to what may be the last day of the congressional session. Perhaps it will take another day or two for Congress to adjourn.

I would just like to observe that this is what we have been handed on the final day. I do not know how many pages are here. I assume it is at least a thousand pages. We are handed this massive bill—that few of us have seen—because once again Congress has failed to do its job on time.

Here we are on the eve of the next fiscal year, and six appropriations bills have to be rolled into one in order to prevent a shutdown of Government. Madam President, this is not the way to do business. I doubt there are very many Members who have any idea what is in this omnibus consolidated appropriations bill. I certainly do not.

We got this stack this morning. We are going to vote, they tell us, sometime this evening. You know, I am a pretty fast reader, but I do not think I can get this job done in time to make any kind of reasoned judgment on what is included. This is not the way we ought to do our business.

Madam President, it does seem to me to be an appropriate time to review the record of what has happened over the last several years. I would just like to start with the question of deficit reduction, because we hear a lot of talk about who is conservative and who is not conservative. Frankly, I do not think it matters so much who is liberal, who is conservative; I think what the American people are interested in is who gets results, because that is at the end of the day what really matters.

If we look at our last three Presidents on the question of the deficits, the results are now very clear. We look back to 1981, President Reagan inherited a deficit of about $79 billion. Very quickly the deficit skyrocketed to over $200 billion, and it was stuck at that figure for most of his term. At the end of President Reagan's term we saw some slight improvement, but still the deficit was about twice as high as the deficit he had inherited. So it is not surprising that the American debt grew dramatically during those years.

Then, of course, came the Bush administration. President Bush inherited a deficit of $153 billion, and it promptly went out of control. In the last year of the Bush Presidency, the deficit was up to $290 billion.

Then President Clinton came in, and in each and every year of the Clinton administration, the deficit has gone down; $255 billion the first year, down to $116 billion this year. So the President has done an outstanding job of deficit reduction.

Some have said, "Well, he doesn't really deserve any credit." It is interesting to look at what an impartial observer says. The head of the Federal Reserve, Chairman Greenspan, says 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." Certainly Mr. Greenspan is correct.

We passed in 1993 an economic plan that cut spending and that raised revenue, and that in combination reduced the budget deficit. Because the deficit was coming down, interest rates came down, and economic activity increased. Mr. Greenspan says that plan was "an unquestioned factor in contributing to the improvement in economic activity that occurred thereafter."

Perhaps this is an appropriate time to start looking at the record. What did happen? Well, one of the things we often talk about is the misery index. The misery index is a measure of unemployment and inflation.

Look what has happened to the misery index over the last 28 years. We have the lowest misery index now, after 4 years of the Clinton administration, the lowest misery index in 28 years.

The good news does not stop there. We have also seen strong economic growth under the Clinton administration. Real private-sector economic growth, under the Bush administration, averaged 1.3 percent. Under the Clinton administration, real private-sector GDP growth has averaged 3.2 percent; a very good record and a dramatic improvement over what we have seen previously.

Real business fixed investment. I think one of the best measures of whether an economic plan is successful is what happens to real business fixed investment. We can see that under President Clinton, we have the best rate of increase in real business fixed investment of any President since World War II. If we look at the last 4 years—since the Clinton administration took control, since we passed the 1993 economic plan—we see a dramatic increase in business fixed investment, in fact, the best record that we have seen in decades.

President Clinton delivered on his promise to reduce the deficit—we can all recall he said he would cut it in half. It was $290 billion in the year before he took office. He has more than met that promise. He has reduced the deficit to $116 billion, a 60-percent reduction.

That is not the only promise he has delivered on with his economic plan. He said his plan would deliver 8 million new jobs. But instead, we now have over 10 million new jobs created during the Clinton administration.

Let me just turn to one other matter because unemployment is also a very significant measuring point as to how well an economic plan is doing.

Back in December 1992, before Bill Clinton came into office, the unemployment rate in this country was 7.3 percent—7.3 percent. In June of this year it was down to 5.3 percent, a dramatic reduction in unemployment. In fact, we now know the unemployment rate fell to 5.1 percent in August 1996. That is the lowest level of unemployment that we have had in 7 years.

Last week we got more good news with respect to what was happening in the economy. The Census Bureau issued its analysis of what has been occurring. What we found is that incomes have been going up and poverty has been coming down, another good measure of whether or not an economic plan is working. In fact, what we saw was that median household income is up the largest increase in a decade.

We saw the largest decline in income inequality in 27 years.

We saw 1.6 million fewer people in poverty, the largest drop in 27 years.

We saw the poverty rate for elderly Americans at 10.5 percent, its lowest level ever, lowest level ever in terms of the number of elderly living in poverty; again, I think a good measure of how well this Clinton economic plan has worked.

I might say, I was proud to have voted for that plan. We had a tie vote here in the U.S. Senate, broken by a vote of the Vice President of the United States. Our friends on the other side of the aisle said this economic plan, the results of which I have just reported on, would crater the economy.

That was their commentary at the time. They said it would increase the deficit. They said it would increase interest rates. They said it would increase unemployment. They were wrong on every count. They were wrong on every single count.

Madam President, we have seen the results of the Clinton economic plan. I think that raises the question of what would the Dole economic plan do?

Senator Dole, running for President, has said that he has a plan, and the cornerstone of that plan is a $550 billion tax cut. I thought, in order to put in perspective what the Dole plan is likely to do, that we ought to look ahead to the next 6 years, because his plan covers the next 6 years.

It is very interesting. If one looks at what we are facing in the next 6 years, from 1997 to 2002, this is the projected spending of the United States under current law. We would spend $11.3 trillion. But this is our income. Our income is only $9.9 trillion. So we are going to be adding $1.4 trillion to the national debt—debt held by the public.

The first thing Senator Dole says we ought to do is cut the revenue another $550 billion, reducing it to $9.4 trillion. So, now the gap between income and outgo is bigger. He is digging the hole deeper before he starts filling it in. He is adding to the debt. That is going in precisely the wrong direction.

If one looks at what is necessary for an economic plan to add up, one finds the following: We would need $584 billion of spending cuts necessary to balance the unified budget. That includes all spending and all revenues—that is the unified budget. That includes the Social Security surpluses that we are scheduled to run over the next 6 years. So we would need $584 billion of spending cuts in order to balance the unified budget. But Senator Dole says he wants a $551 billion tax cut. So now we would need $1.1 trillion of cuts in order to balance the unified budget and prevent adding to the debt held by the public over this next 6-year period.

It does not stop there. Senator Dole's plan assumes that he is going to count all of the Social Security surpluses over the next 6 years to help balance the budget. That is $525 billion of Social Security surpluses. Now, if we were really going to honestly balance this budget, we would need the $584 billion of spending cuts just to balance the unified budget, then we need the $551 billion to cover his tax cut so we do not add to the debt, then we need another $525 billion so that we are not raiding the Social Security trust funds. So now we need $1.6 trillion in spending cuts.

Madam President, we will look at what Senator Dole is proposing and see if he meets those tests. Does he come up with $1.1 trillion of cuts to prevent adding to the debt with his tax cut? Or does he honestly balance with $1.6 trillion of cuts necessary to prevent raiding the Social Security trust fund? What are the cuts he has come up with? Has he come up with anything close to $1.1 trillion to prevent adding to the debt to cover his tax cut, or to really do the job and have $1.6 trillion of cuts to prevent raiding the Social Security trust fund?

Here is the spending that is outlined over the next 6 years under current law. Social Security, $2.1 trillion, about 20 percent of projected spending over the next 6 years. Interest on the debt, nearly as much, $2 trillion. Defense, $1.7 trillion. Of course, Senator Dole says defense is off the table. He will not cut defense, he will not cut Social Security. Medicare is $1.6 trillion projected over the next 6 years. Medicaid, almost $1 trillion over the next 6 years. Other entitlements—student loans, food stamps, child nutrition—those are other entitlements. Then we have nondefense discretionary, which is $1.7 trillion over the next 6 years. Nondefense discretionary is roads, bridges, law enforcement, jails, parks—all of that is in nondefense discretionary.

Now, we will look for a moment at whether or not Senator Dole's plan adds up. Taking the savings he has talked about, he said he will take a sliver out of the $1.6 trillion of Medicare, and he has that savings of $158 billion. So that is in the cookie jar. We will see when we are done if he has $1.1 trillion of cuts or the $1.6 trillion necessary to prevent raiding the Social Security trust fund. We have so far in the cookie jar $158 billion of Medicare cuts. He says on Medicaid, he will take a sliver out of that, which is the equivalent to $72 billion, and we will put that down and it is in the cookie jar. That is $72 billion of Medicaid cuts. He also says he will take a chunk out of other entitlements, which is right here. He will take a chunk out of this spending category. And, again, he is talking about $124 billion of other entitlements—again, that is child nutrition and a number of other areas we have talked about, including food stamps, Federal retirement, student loans. He has $124 billion there. We will put that in the cookie jar. Then he says he will cut nondefense discretionary. That is one of his biggest cuts, nondefense discretionary. He has $300 billion that we can put in the cookie jar out of nondefense discretionary spending.

What is nondefense discretionary spending? That is an area in which we are projected to spend $1.7 trillion over the next 6 years. He has $300 billion in cuts out of that category. That is roads, bridges, airports, education, law enforcement. That is the biggest place he is cutting.

Does that make sense? Is that where we want to cut in this country—education, roads, bridges, airports, law enforcement? Well, Senator Dole says cut that $300 billion. He is not done yet because he also has some interest savings, a little sliver of interest savings. That is $50 billion of interest savings.

Then Senator Dole sees he is nowhere close to adding up so he goes back to the spending pie and he says, "I have to take some more out of 'other entitlements.' I have to take some more out of child nutrition, student loans. I have to take some more out of Federal retirement." So he comes up with another $66 billion of other entitlements. But still he is nowhere close to adding up. He is at about $750 billion so far, so he is way short of adding up to the $1.1 trillion necessary to keep from adding to the debt to finance his tax cuts. So he is way short.

What he does is go back to nondefense discretionary spending again, hits that again. Education, roads, bridges, airports, law enforcement, environmental protection. He says take another $150 billion out of that category and put it in the cookie jar.

Now, one can see he is drastically cutting this category of spending. Senator Dole started with $302 billion in nondefense discretionary cuts, and then he took another $150 billion out of this category. So he is up to $450 billion out of nondefense discretionary spending, which is $1.7 trillion to begin with. We are talking about cutting education, roads, bridges, airports, law enforcement, and jails by 30 percent in the Dole economic plan. But still it does not add up. Still it does not add up. If you add up all of what he has talked about cutting, he is just over $900 billion. And we showed on the previous chart that you need $1.1 trillion in cuts in order to prevent adding to the debt because of his tax cut. And you need $1.6 trillion of cuts if you are going to avoid raiding the Social Security trust fund.

So if $1.1 trillion is the test, Senator Dole has a $200 billion gap here in terms of spending cuts. Even with that, he has taken huge chunks out of education, roads, bridges, airports, law enforcement. He says he is going to be tough on law enforcement, but he takes 30 percent of the money that we are projected to spend over the next 6 years out of the category that law enforcement spending comes from. If he is not going to cut law enforcement as much, he is going to have to cut education more. He is going to have to cut roads more or airports or bridges more. Still he is nowhere close to adding up.

Madam President, it just seems to me that the Dole plan is at least $200 billion short of adding up, and that even assumes that Senator Dole is going to use all $525 billion of Social Security surpluses.

Well, it doesn't take an awful lot of mathematical calculation to figure out the problem. We remember the last budget that was offered by his party had $245 billion of tax cuts, and in

order to help finance that, they had $163 billion in reductions to Medicaid. All you have to do to reality test here is ask what would be the Medicaid cuts necessary to finance the bigger Dole tax cut? Because instead of a $245 billion tax cut, he is now talking about a $550 billion tax cut. How big would the Medicaid cuts have to be? They were $163 billion to accommodate a $245 billion tax cut. How big would they have to be to accommodate a $550 billion tax cut?

Domestic discretionary spending. The same way. Under the previous Republican budget, they had $245 billion of tax cuts. They had domestic discretionary cuts of $440 billion. In order to accommodate the tax cut and move toward a balanced budget, how big would those domestic discretionary cuts have to be to accommodate a $550 billion tax cut?

The same question can be raised about Medicare. Medicare, they proposed reducing $270 billion. I know some say, well, it is not a cut. Well, how did they save $270 billion if it is not a cut? How did they save $270 billion if they didn't cut anything? Of course, they cut something. They cut from what current law provides. Why? Because they needed to accommodate their $245 billion tax cut and move toward a balanced budget. How big would the Medicare cuts have to be if you are going to have a $550 billion tax cut instead of a $245 billion tax cut? Obviously, something has to give here. Either the cuts have to be much deeper, or the Dole plan is actually going to add to the deficit, add to the debt. That would be a profound mistake, in my judgment.

Senator Dole has said Social Security is off the table. Is it really? Is it really off the table? I showed the chart that indicated in his plan he is counting on using $525 billion of Social Security surpluses in the next 6 years in order to help move toward balance. Very interesting. Madam President, $525 billion out of Social Security surpluses and a $550 billion tax cut. Does that make any sense? Does it make sense to take every penny of Social Security surplus and turn right around and give it out in terms of a tax cut—a tax cut that disproportionately goes to the wealthiest among us?

You know, we hear that claim made. What is the evidence? So I had this chart prepared. The Dole tax cuts—who benefits? Who are the big winners? This looks at all of his tax cut plans put together. If you are in the under $10,000 a year category of income, and 19 percent of American families are in that category, you get $5 on average. If you are in the $10,000 to $20,000 a year category, that is 21 percent of the American people, you get $120 a year, $10 a month, on average. If you are in the $20,000 to $30,000 category, about 16 percent of the American people, you get $400 a year, about $30 a month, on average. Look at the top end here. The top 1 percent of the American people. Those earning over $200,000 a year. What do they get? Well, they get the cake. They get, on average, $25,000 a year of tax reduction. Madam President, $25,000 a year of tax reduction.

So if you are in the 50 percent of the American people that have less than $30,000 a year of income, you are going to get anywhere from $5 a year to $30 a month, on average, at the top end of that scale. But if you are up here and you earn over $200,000 a year, you are going to get a $25,000 reduction, on average. Is that fair? Does that make any sense? Does it make any sense to add to the debt, add to the deficits, so we can give a $25,000 a year tax break to the top 1 percent, who earn over $200,000 a year? Is that what we ought to do in this country? Does that make sense?

Does it make sense to take $525 billion of Social Security surpluses—money we are going to need to get ready for when the baby boom generation retires, and give it all out in a tax cut, the vast majority of which goes to people earning over $200,000 a year? Does that make any sense? Does it make any sense to propose a plan that has $900 billion in spending cuts, when you need at least $1.1 trillion of spending cuts to accommodate Senator Dole's tax cut and not add to the debt? And you would need $1.6 trillion of spending cuts not to raid the Social Security trust fund. And he only comes up with $900 billion of cuts. The cuts he has come up with come out of nondefense discretionary spending. He is cutting that category 30 percent, even though his plan doesn't add up. The part that he is really hammering is education, roads, bridges, airports, law enforcement, jail construction. Does that make any sense for America's future?

Madam President, when one looks at where the money is going over the next 6 years, it is very interesting. Defense spending $1.7 trillion. Social Security $2.1 trillion. Interest on the debt $2 trillion. Medicare $1.6 trillion. Medicaid just under $1 trillion. This is where the money is going. Other entitlements—that is child nutrition, student loans, that is food stamps, and nondefense discretionary, $1.7 trillion, as I have said. That is education, roads, bridges, airports, law enforcement.

I just think we have to ask ourselves: What works? What do we know works? We know, based on the evidence I provided earlier, that the Clinton economic plan that we passed in 1993 has worked. It is undeniable. Four years in a row of deficit reduction. Let us go back to the chart that we began with. I think it is a good place to end. We know what works. The plan that we passed in 1993 reduced the deficit every year for 4 years in a row. More than a 60 percent reduction. We need to stay on that course, because we face the demographic time bomb of the baby boom generation. When they retire, the demands on Federal programs are going to explode. That is why we need to stay on this course of deficit reduction. It is one reason that this course of deficit reduction that is paid off so handsomely. Not only have we reduced the deficit but unemployment got reduced.

All of the things that you would like to see going up are going up. Jobs are going up. Income is going up. Business investment is going up. The things you would like to see going down are going down. Poverty is going down. Unemployment is going down. The deficit is going down.

This is a plan that has worked. And I believe it would be a profound mistake to go in this direction—this radical direction—that Senator Dole has prescribed that clearly doesn't add up. Either he is going to have much bigger cuts in things like education, Medicare, Medicaid, roads, or bridges that he has already outlined—and he has already outlined massive cuts in those areas—or he is going to absolutely explode this deficit. And that would be a profound mistake for this country's future.

I hope over the coming weeks that we in this country will have a serious national debate about these issues because this is critical to America's future. We have a chance to stay on course. We have an opportunity to keep moving this country in the right direction. I very much hope that, as we go through these last 5 weeks of the political campaign, that the American people will keep in mind the progress that has been made. We have made important progress—strengthening our national economy. We cannot go back to a failed policy that put this country in the ditch once before, that exploded the deficits, that exploded the debt, and that weakened America; that put us in a condition of economic decline against our competitors. That would be a tragedy.

Hopefully, we have learned from our failures of the past and the more recent successes that we have enjoyed since the Clinton economic plan was passed.

I thank the Chair.

I yield the floor.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE FAA REAUTHORIZATION BILL

Mr. DORGAN. Madam President, the pending business before the Senate is

the continuing resolution, the large appropriations bill. But there are a couple of other items—one of which we discussed earlier this morning—that must be resolved by this Congress.

I wanted to just mention again why the FAA reauthorization bill is critical. We have talked about the issue of aviation safety and security this morning. But I want to mention to my colleagues one other item that is in this bill that I think is critically important. It deals with the issue of the essential air service program, and the ability to provide airline service to even rural areas of our country.

I have said before—and I know it is repetitious but I want to say again—that, in my judgment, the issue of airline deregulation has been terribly hurtful to many rural States in our country.

Prior to airline deregulation, the State which I represent here in the Congress had numerous jet carriers serving the airline service needs of North Dakota. We had the old Western Airlines, we had Republic Airlines, the old North Central which later became Republic, Northwest Airlines, Frontier Airlines, and Continental Airlines. At various times we have had a wide range of jet carrier service in North Dakota.

But since airline deregulation we now have one carrier serving our State with jet service—Northwest Airlines. Northwest is a fine carrier. I think they provide good service. But, as all of us know, the market system works best only when you have competition. Competition means that people vie for the customers' business by better service and/or lower prices. And when you have one carrier you do not have price competition.

We put in place an essential air service program when airlines were deregulated in this country some 15 or so years ago, and the essential air service program was designed to try to provide some basic protection for rural areas recognizing that the deregulation may mean that the major airlines will go compete between Chicago and Los Angeles, Los Angeles and New York, and New York and Miami. They are not going to rush to go compete between smaller cities and smaller markets.

So the essential airline service program was developed. It was originally developed and authorized, and expended about $80 million a year; then down to $70 million; then $50 million; and, then $30 million. Now it is down to about $25 million a year just providing a skeleton of support for airline service in small communities in our country.

This piece of legislation creates a new and unique way to permanently resolve the essential airline service program at a healthy rate of funding—fully financed—that will be helpful to rural areas all across this country.

Madam President, if I were to leave Washington, DC, today to fly to Los Angeles, CA, and I purchased a ticket with a 2-week advance, with a Saturday night stay and with all of the requirements that the airlines have on those who purchase these tickets, it would cost probably in the neighborhood of $250 to fly from here all the way across the country to California. The Commerce Committee framed it in terms of going to see Mickey Mouse at Disneyland in Anaheim, CA—about $250. Then I showed the members of the Commerce Committee a picture of the world's largest cow that sits on top of a hill outside of New Salem, ND. It is called Salem Sue. A giant cow sits on a hill out there not so far from Bismarck. If I wanted to see not Mickey Mouse but Salem Sue instead, and wanted to fly from here to North Dakota half as far as flying from here to Los Angeles, and I made reservations to do that, I would pay twice as much.

In other words, we are left in a circumstance in this country with airline deregulation where—at least with respect to rural areas—if you want to fly twice as far you can pay half as much going to an urban area, but fly to a rural area and fly half as far you will double your ticket price.

Does anyone think there is any rational basis for that? I do not. If you believe that transportation is sometimes repetitious of universal need, and you believe the need for transportation service is relatively universal, it does not make sense to say, "Well, if you live in a very large area of the country you get dirt cheap prices but if you live in a small area of the country, what happens is you just pay through the nose."

What I proposed in the FAA reauthorization bill was an essential air service program that is funded by a fee that is assessed on overflights in this country by foreign carriers. Virtually every country in the world assesses a fee on airlines overflying their space by foreign carriers—virtually every country except the United States. We do not have such a fee. We were intending to promote such a fee, and I propose that when a fee is proposed we attach it, at least part of it, to the essential air service program so that it generates a sufficient amount of money each year; rather than have to go to the Appropriations Committee and seek diminished funding every year for that program, which is essential in providing airline service to rural areas, we would have a permanent source of funding to fill in where airline deregulation is injuring rural States and smaller communities.

That is what we put in the FAA authorization bill. I authored the piece of legislation. It was supported on a bipartisan basis by Republicans and Democrats. It will permanently solve this problem in a significant way and provide opportunity through better air service in rural parts of our country that have been injured by deregulation. It is simple but effective in solving a real problem.

That is part of this bill. And if this bill dies, that goes. A lot of work over a long period of time to solve a very real problem is going to be gone.

We mentioned earlier this morning that the major issue here, however, is aviation safety and security. The responsibility to pass an FAA authorization bill is one that cannot be abrogated. We cannot end this session of Congress without passing this legislation. I know there is a controversial piece that was attached in conference. Whatever excuse one might want to find for one reason or another to say this is going to have to be delayed, it cannot be voted on now or then, the fact is this Congress cannot adjourn and cannot leave town without addressing this issue. Reauthorizing the functions of the FAA are critical in addressing the aviation safety and security issues that this Congress is obligated to address.

The Senator from Alaska, the Senator from Arizona, and others have spoken this morning, and I would add my voice to theirs, although I might make some different characterizations than I heard in a couple of instances today about what is at stake in this fight, but I would say this. There is no disagreement about the fact that this Congress cannot adjourn unless it resolves this issue. And there will be some of us standing here at the end of this week preventing this Congress from ending its session if it has not enacted an FAA authorization bill that deals with the issue of safety and security in air travel in this country.

I began simply mentioning that there are many other things in this bill which escape a lot of notice, one of which is a critically important piece dealing with improving airline service in rural States and smaller communities across this country which I think is critically needed.

Madam President, I know there are others who want to speak. I did want to add my voice to those who spoke earlier this morning on this FAA reauthorization bill.

I yield the floor.

The PRESIDING OFFICER (Mr. KYL). The Senator from California.

OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mrs. FEINSTEIN. Mr. President, I rise to speak on the continuing resolution and, specifically, the immigration bill, which deals with illegal immigration and which has been added as a portion of that bill.

Few issues are more clearly and unequivocally the responsibility of the Federal Government than the issue of

immigration, whether it be lawful or unlawful. Legal immigration, the threads from which our Nation's rich tapestry is woven, is a matter of national policy, and, in fact, no nation on Earth has as a liberal policy and takes in more people from other countries each year than does the United States of America.

The ability to absorb newcomers becomes a question of resources, a reflection of our values, values of self-sufficiency, responsibility, respect for our laws, family unity, and the legacy of this country as a Nation of immigrants.

Illegal immigration, however, is a matter of law enforcement —whether it is enforcing our borders, enforcing our laws against working illegally or hiring someone to work illegally. It is the Federal Government's responsibility to enforce these laws.

Unfortunately, this job has not been done well over the years, and the prohibitions against illegal immigration, while on the books, have meant very little in reality. The cost of the failure to act on this responsibility has been very high.

Warning signals have been coming for years:

Communities are demanding action against: the growing crowds of illegal workers looking for day labor on street corners; lawsuits demanding Federal reimbursement for the cost of incarcerating, educating or providing health care for illegal aliens. "English only" laws are being discussed, expressing concerns about the inability of teachers to teach in schools. Many in California have dozens of different languages. As a matter of fact, there has been a report that 67 different languages are spoken in a single elementary school. It is very difficult for teachers to teach under these circumstances. There is also a rise in discrimination, and even vigilantes at airports looking for illegal immigrants.

A study just released by the Public Policy Institute of California sheds some light on the rise in animosity toward illegal immigrants. The study shows that the level of illegal immigration into California during the 1980's was substantially higher than previously thought.

Researchers estimate that as many as 2.2 million illegal immigrants settled in California during the 1980's, their migration soaring along with the California economy, comprising as much as 22 to 31 percent of all newcomers to the State during that period.

This is the point. As the State's economy stalled in the 1990's, the research indicates, interestingly enough, that illegal immigration dropped to about 100,000 a year. So as the economy of a given area gets stronger, the job magnet attraction for illegal immigration increases. When an economy worsens, that job magnet attraction clearly decreases.

I came to this body in 1993 after having run for Governor of my State 3 years before. I knew then as I traveled through my State—and I learned it very clearly—in 1989 and in 1990 that this was going to be a growing issue, and that the need for change was becoming more urgent.

As a newcomer to this body, I stood in the Chamber on June 30, 1993, and told my colleagues that I believed we needed to take action to stem illegal immigration, that the impact on my State had become enormous, and that failure to do so would only bring about a backlash.

At that time, I introduced a bill to beef up our borders and stiffen penalties for document fraud and for employing illegal workers. I tried to get myself on the Immigration Subcommittee of the Judiciary Committee, where I have served with the distinguished Presiding Officer these past 2 years. But this body did not act. The House did not act.

Within a year, in California, organizers were circulating petitions to put proposition 187 on the ballot—by far, the most draconian and punitive anti-immigration measure seen in this country for many decades, and for the first time it targeted children. It took the approach of requiring that teachers and doctors report anyone suspected of being here illegally.

Essentially, if a youngster were in school and looked different or talked different and the teacher suspected they might be illegal, it was that teacher's law-given obligation to report that youngster to the INS. If that youngster was born in this country and therefore a citizen but the parents might have been born in another country and came here illegally, it was that teacher's obligation to report that youngster.

Most amazingly so, the same prerequisites and obligations were imposed on doctors and health care workers. Therefore making it a real risk, if a child had measles or chicken pox, to even take that child to a doctor. Believe it or not, that proposition passed with a substantial majority in the State, and it won in most minority communities. As a matter of fact, even in those communities where it did not win, it received a substantial plurality.

A poll taken by the Los Angeles Times, right after the election, asked voters why they supported proposition 187. Nearly 80 percent of the initiative's supporters said it was to send a message to Washington. More than half said they hoped this would force Washington to do something about illegal immigration. Less than 2 percent—believe it or not—cared for the specific measure that denied education to illegal children in that now infamous initiative.

I did not support that measure, but the message was unmistakably clear. People should not have to force the Federal Government to live up to its responsibilities to enforce our borders and our laws. Period. We do not have the luxury of debating this issue for another 2 years or 4 years. Rather, we have the responsibility to take action now. And the bill in this continuing resolution does offer strong reform. This is not a perfect bill, but its major thrust is to stop illegal immigration. And carried out and enforced, I believe it can make a major step forward in that direction.

Let me just quickly talk for a few moments about some of the key provisions. Mr. President, both you and I strongly supported the provision to add 1,000 new border patrol agents each year for the next 5 years and allow the Attorney General to increase support personnel at the border by 300 per year, over the same period. This effectively doubles the strength of the Border Patrol.

I think this works. Since 1993, Border Patrol, along our southwest border, has increased by 50 percent in personnel. And, as a result, apprehensions of illegal immigrants rose more than 60 percent in 1 month at the beginning of this year. Clearly, the presence of added Border Patrol makes a difference in controlling illegal immigration.

This bill improves border infrastructure, authorizing $12 million for new equipment and technologies for border control, including building a triple fence in appropriate areas, and new roads. This would be in one of the most highly traveled and difficult to patrol areas along the southwest border.

The bill adds 600 new INS investigators in 1997 alone to enforce our laws. I have heard critics criticize this bill, saying it does not do enough in that direction. However, there will be 150 more investigators to investigate employer violations, 150 to investigate criminal aliens, and 300 designated to investigate visa overstays in 1997.

You and I know that one-half of the people who come into our country illegally have visas and they just simply overstay that visa. And the visa, up to this point, has had no teeth. If they disappear into the fabric of the society, it is very difficult to find them to enforce that visa. This bill dedicates 300 new INS investigators to visa overstays. It is the first real effort this Congress has made to control one of the biggest problem areas in illegal immigration.

And the bill allows the Attorney General to establish an automated entry and exit control system, to match arriving and departing aliens and identify those who overstay their visas.

It precludes a person who overstays his or her visa from returning to this country for up to 10 years. This gives meaning to a visa. In a sense, in a great sense, I am sorry we have

reached this day and age in our very free society. But, you know, there is one thing I deeply believe and that is, we are a country of laws. We do not have the liberty to pick and choose which laws we enforce or do not enforce. But the departments of our Government should be bound to enforce the laws that are on the books.

We, if we do not like those laws, have the ability and the opportunity to change those laws. I am very disappointed this bill does not increase penalties for employers who violate the law as the Senate bill did, but penalties do exist. I have just taken a look at those penalties. As I mentioned earlier, there are also 150 INS agents, investigators specifically designated to investigate employers. The penalties essentially go from $250 to $10,000 in civil penalties for each alien, increasing with the number of offenses. And, on top of these fines, if the employer has a pattern of violations, he or she can also be subject to a maximum of $3,000 per alien and 6 months in prison for each transaction. And the Attorney General may also issue an injunction against the employer for repeated offenses.

If you think about it, these are strong penalties. But what is the problem? The problem is they have not been enforced. So this bill, once again, must be enforced if it is to have teeth.

Let me speak of worker verification. This is another disappointment because the heart of any effective system to prevent the job magnet from working is verification of documents that show legal authority to work. Any employer who can have their prospective employee, while being interviewed, present up to 29 documents, really cannot tell which is real and which is false. I know that. I have been in that position. I know how difficult it is to tell. This bill establishes three pilot programs for employment verification in five of the highest-impact States. So this is a step forward.

I want to speak for just a moment about document fraud, because probably there is no more greater problem in the United States in this area than document fraud. It is wholesale. It is rife.

It is just all over the place. Just recently, INS shut down a major document fraud ring in Santa Ana, CA. They confiscated 22,000 fake green cards, Social Security cards and driver's licenses. These were all first-rate forgeries, and they were meant to be sold in California and throughout three other States. It is a major underground industry in my State, and this bill does begin to deal with this problem.

It reduces the number of documents that can be used to establish an individual's employment eligibility, and it increases the maximum penalties for document fraud from 5 to 15 years in prison. That is the maximum, and it sets security standards for key identification documents, such as birth certificates and driver's licenses, to prevent fraud and counterfeiting.

If I had my way, we would cut the number of documents down to a basic number and make every green card, every Social Security card and every birth certificate counterfeit-resistant.

So the compromise in this bill is not all I wanted or think we need, but, again, it will be light years better than the situation we now have with employers having to struggle to recognize up to 29 different documents.

The bill also stiffens penalties for aliens illegally entering or attempting to enter the United States, and makes high-speed flight from an INS checkpoint a felony punishable by up to 5 years in prison. I think most Members of this Senate have seen the results of high-speed chases, certainly in my State, where people can die by the dozens in car crashes, in overcrowded vans, as innocent victims of high-speed-pursuit chases by law enforcement. And, of course, one very notorious incident resulted in law enforcement officers in a county taking out their frustrations physically upon some of the people who were being carried in the van.

Let me just for a moment speak about title V. This was a controversial title. It included some provisions for illegal immigrants and several provisions for legal immigrants. It was meant to tighten up income requirements and do some other things. Basically, I very much agree with the changes made to title V—with some exceptions, and I am prepared to support it. There is one area which was not changed and with which I have a major problem, and that is the section that deals with refugee assistance. A provision was deleted from the conference report that would have corrected a glaring inequity in the allocation of refugee assistance funds.

Under the funding formulas in the current law, funds for refugee assistance are not allocated on the basis of need or numbers or where the refugees are. My State, California, has 60 percent of all of the refugees in the United States of America. We receive $31 per refugee under this bill, while other States receive as much as $497 per refugee. That is just plain wrong. It is not the way this Government should exist, with cushy deals for some States and other States really ending up down and out.

This provision costs California $7 million in Federal funds. The withdrawal of the language that I submitted, to see to it that refugee dollars went based on where the refugees are, is not included in the immigration bill. It went with some kind of a political plum. I certainly intend to readdress this issue at the first available opportunity in the next Congress.

In conclusion, Mr. President, I must say, I am very pleased that the Gallegly amendment is out of this bill. I also think that fair changes have been made to the immigration bill, and I particularly thank the members of the Immigration Subcommittee. I think both you and I would agree that the markup of this bill on the Senate side was something very unusual. Members listened to each other, and it went on hour after hour, day after day. I think we produced a very good bill on the Senate side.

This bill has been changed somewhat. I think it still remains a very strong Federal tool giving the Departments of the Federal Government both the license they need, as well as the tools they need, to see that we do what we should do: guarantee that the borders of our country are enforced against illegal immigration.

I, for one, being the product of legal immigrants, really believe that it is important that the richness of our tapestry continue to be woven through people who come to this country from many other places. The fact that the legal immigration quotas remain as they are, extraordinarily broad, and I think liberal, is important, and that we say to the people of this Nation, "We are a nation of laws, and we will abide by them."

I thank the committee. I particularly thank the chairman of the Immigration Subcommittee, Senator SIMPSON, who worked very hard and very diligently, who has studied this issue and which legislation bears his name. I think he has been a person of great integrity and credibility on the issue for a long, long time. When he retires from this body, I guess at the end of this year, he will leave a legacy of fairness and a striving for laws in this area which are sustained by that credibility and integrity.

Finally, I want to address sponsor income requirements. In addition to being enforceable, sponsor contracts must also be realistic. I support raising the income requirement for sponsors of immigrants.

The purpose of the sponsor income requirement is to ensure that people who sponsor immigrants into this country have the ability to provide for them. Tell me how someone supports a family of two on $10,360 per year—which is the current poverty-level requirement.

A person can barely support himself or herself on $10,360 per year—that's why it's called the poverty level.

This bill makes what I think is a modest change in the income requirement: If you have an income of $12,950 per year for a family of two, you can bring your spouse and minor children into this country.

California—and all States who bear the burden of illegal immigration—

need this bill. I strongly urge my colleagues to support this legislation by voting yes.

I thank the Chair and yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, the omnibus appropriations bill that is now before the U.S. Senate includes 6 of the regular appropriations bills out of 13, but includes, by far, the largest amount of money directly appropriated by the Congress for discretionary purposes during the course of the year, as 2 of those 6 bills are the appropriations bills for our national defense and for all myriad activities coming under the rubric of labor, health, and human services.

These appropriations, nevertheless, represent only a modest proportion of the money the people of the United States spend through their taxes and through their borrowing because, of course, it does not involve major changes in any of the entitlement programs which continue to grow almost without any significant control.

Nevertheless, this is a responsible appropriations bill. It is the work of a bipartisan compromise, actually a tripartite compromise, involving the Republican leadership in both Houses of Congress, with input from the Democratic minority, all subject to the will of the President of the United States who has said he will sign the bill.

By and large, it is a commonsense solution, it is a reasonable appropriations bill, and it is one that I will certainly vote to pass.

This set of appropriations does dramatically reduce the spending for discretionary purposes by the Government of the United States. It does at least begin to move in the direction of reducing the burdens that we impose on the people of the United States and reducing at least the growth in the debt that we load on the backs of our children and grandchildren. It changes the direction that 40 years of a Congress dominated by the Democratic Party led this country in. To that extent, it represents a very important change.

Even so, Mr. President, last-minute negotiations have included in this proposal, in my opinion, $3 billion or $4 billion of the $6.5 billion demanded by the President over and above the earlier plans of the budget that is unnecessary spending. It is, in essence, the price that we pay for ending this debate on the last day of the fiscal year and not threatening a closedown of the Government. That is a relatively high price, $3 billion or $4 billion, but it pales to relative insignificance when compared with the more than $50 billion that we have saved from the normal growth of previous programs over the course of the last several decades.

We are heading in the right direction, in other words, but we have not achieved our ultimate goals.

We on this side of the aisle have as a priority to make the Federal Government live within its own means, to cut wasteful Government spending, to end, to terminate the time at which we continually add to the burdens of those who will come after us. We have made it a priority to return power to the people and to their local and State governments.

But in spite of these gains, Mr. President, do most people really think that we have clipped the wings of the bureaucrats here in Washington, DC, and returned power to them? I think not, Mr. President. And I believe that that perception, that reality, shows not only what we have gained in the last 2 years, but how far we still have to go.

It is time and it is our purpose to return common sense to Government, to give individuals a greater degree of influence over their own daily lives, to change the direction of the last decades, to examine programs which have gone unexamined for a decade, two decades, three decades, four. When programs are not working, Mr. President, they should be changed or terminated.

But overall, as I said, as I began these remarks, this is a good appropriations bill. It does move us in the right direction. It is one that it is appropriate for us to pass. And I am convinced that before the evening is out, we will have passed it.

At this point in my remarks, Mr. President, I have the details of that portion of this bill that comes under the influence of the Subcommittee on Appropriations for the Department of the Interior and related agencies. In that connection, Mr. President, the bill is almost identical to the bill that we were considering here on the floor of the Senate at the time at which nongermane amendments, by the legion, were offered, and the bill was taken down.

That proposal was worked out in a totally bipartisan fashion, with the help and the assistance and the approval of my most distinguished colleague, the senior Senator from West Virginia, ROBERT BYRD. It is a very responsible answer to questions in connection to our national parks, our national forests, our energy resources, our cultural institutions and the like.

As you will recall, the Interior bill was brought up and debated briefly on September 6, 9, and 10, before being put aside. With little possibility of passing a separate bill in time for the start of the fiscal year, the Interior bill has been combined into the omnibus appropriations bill. Following the Senate floor action, Senator BYRD and his staff and my staff and I worked with our House counterparts to iron out the differences between the House-passed and Senate-reported bills. The bill before you reflects the product of those discussions as well as negotiations with the White House to ensure that a final product would be signed by the President.

This bill represents compromises. No one received everything he or she wanted. However, I believe it is in the interest of the Nation to move forward so vital operations of the Government can continue uninterrupted as the new fiscal year begins. It includes $12,504,798,000 in discretionary budget authority and approximately $13,176,000,000 in outlays. The President's budget request is $377 million above the level included in the omnibus bill in budget authority and $494 million above it in outlays. As a starting point, the discrepancy in House and Senate 602(b) allocations was resolved by splitting the difference between the two allocations.

The Interior bill includes an additional $150 million for programs that the Congress and the administration agree are priorities, and for which additional funding should be provided. These programs include areas such as Indian education, energy conservation, Indian health services and facilities, the National Endowment for the Humanities. Amendments were expected to be considered on the Senate floor that would have added funding to these same programs. The administration has expressed concern regarding specific legislative provisions within the bill and many of these provisions have been dropped or modified.

Emergency funding is included to address the devastating wildfires in the West and hurricane, flood-related and other disaster damages in the East and West. Only $88.2 million for Forest Service fire suppression is proposed in the President's fiscal year 1997 request. The agency's 10-year annual average expenditure for fire suppression is $296.4 million, leaving a $208.2 million shortfall if fiscal year 1997 proves to have an average fire season. In addition, the Forest Service currently owes the Knutson-Vandenberg Trust Fund (K-V) $571 million for current-year and past-year fire suppression activities. The agency cannot borrow additional funds from the KV fund without deferring statutorily required reforestation activities. Recognizing the severity of this fire season, the unrealistic budget request, and the critical juncture of the fire and KV programs, an additional $120.5 million above the budget request is added for fire suppression activities, bringing the total to $210.5 million. Also, included in the Interior portion of the omnibus bill is $550 million to repay the borrowed KV funds. Another $100 million is included for the Department of the Interior's fire suppression activities. Funding of $48 million for damage caused by floods, hurricanes, and other natural acts is included. Within the Interior section, $17 million is provided for counterterrorism.

The Interior bill presents difficult choices. The needs of the various agencies funded through the Interior bill are great, from the operations and facilities requirements of the national parks, forests, refuges, public lands, and museums to the basic health care, tribal government, and education services provided to native Americans. In assembling this bill, we have attempted to strike a balance between these competing interests and between the various interests of the Congress and the administration.

Now, let us turn to the recommendations before you today. Among the items of interest are:

LAND MANAGEMENT

The omnibus bill provides additional funds above the fiscal year 1996 amounts for the operational accounts of the land management agencies.

Bureau of Land Management: plus 1 percent.

Fish and Wildlife Service: plus 5 percent.

National Park Service: plus 6 percent.

Forest Service: plus 1 percent.

The construction accounts for the land management agencies have increased $38.5 million, or about 11 percent, above the fiscal year 1996 level. The majority of the construction projects involve the completion of ongoing projects and the restoration or rehabilitation of existing facilities. While it may seem that this is a large increase for construction, I would remind my colleagues that the facility backlogs for these land management agencies are approximately $9 billion.

Overall funding for land acquisition for the land management agencies totals $149.4 million, which is about $11.2 million, or 8 percent, over the current level; $49.4 million above the House level; and $3.6 million below the Senate committee recommendation. The omnibus bill has identified specific projects, even though the House bill did not.

SCIENCE AGENCIES

Funding for the Office of Surface Mining is increased slightly, while the Minerals Management Service is maintained at the fiscal year 1996 level through the increased use of user fees.

CULTURAL ACTIVITIES

Within this category, the first priority was to provide adequate resources to those cultural institutions, such as our Nation's museums, for which the Federal Government has primary funding responsibility.

Among the many competing needs of our cultural agencies, the subcommittee continues to place particular emphasis on repair and renovation work that is required to keep these institutions open to the public and collections preserved safely. Budget estimates from the Kennedy Center, the National Gallery of Art and the Smithsonian Institution have been met in full to facilitate this work.

DEPARTMENT OF ENERGY

Energy conservation programs are funded at $570 million. This number is an increase from the initial House-Senate conference agreement, reflecting the committees' response to the funding priorities identified by the administration late last week.

Within the amount provided for energy conservation, the weatherization program is increased by $9 million over the fiscal year 1996 level and the State energy conservation program is increased by $3 million.

Fossil research and development is down 4.5 percent from the comparable fiscal year 1996 level.

The sum of $123 million is rescinded from the Clean Coal Technology Program, substantially less than the $325 million rescission proposed in the budget. The rescission included in the conference agreement reflects a careful consideration of the needs of projects remaining in the program, funds made available by the recent termination of some projects, and the $200 million rescission that was enacted last year.

Funding for the naval petroleum and oil shale reserves is set at $143.8 million. While this amount is above both the House and Senate passed levels, it is still $5 million below the prior year level and does little to address the increased demands placed on the program by the potential sale of the Elk Hills field. I also note that the administration estimated that the original House and Senate funding levels would have resulted in a revenue loss of $45 million over the next 2 years.

Operations of the strategic petroleum reserve are funded by oil sales from the reserves, $220 million.

INDIAN PROGRAMS

In aggregate, Indian programs total $3,765,645,000 in the Interior portion of the bill, which is an increase of about $112 million above the fiscal year 1996 funding level and about $16.5 million above the Senate committee recommendation.

BIA.—Funding for the Bureau of Indian Affairs increases by about $34 million above the fiscal year 1996 funding level, and $68 million above the House amount.

Tribal priority allocations.—Emphasis has been placed on providing additional funding to tribal priority allocations, which is $26.7 million—plus 4 percent—above fiscal year 1996 and $4.2 million above the Senate committee recommended level. Within the tribal priority allocations, the committee has included an increase of $4 million for small and needy tribes and a general increase of $19.5 million.

School Operations.—The omnibus bill also places emphasis on elementary and secondary school operations and funding has been increased by $41.3 million—plus 10 percent—above the fiscal year 1996 level and almost $23 million above the Senate Committee recommended level. The omnibus bill funds all BIA-funded elementary and secondary school operations at the budget request, with the exception of a small reduction—$2 million—below the President's request for the Indian School Equalization Program [ISEP] formula.

Indian Health Service.—Total funding for the IHS is increased by $67 million—3.4 percent. The increase is for staffing of recently completed facilities, a portion of pay costs to maintain service levels, and funding for replacement of a health care facility in Montana that recently burned to the ground.

LEGISLATIVE PROVISIONS

Several provisions have been removed that were included in either the House or Senate versions of the Interior bill, but which were opposed by the administration. The following provisions have been removed: General Accounting Office review of the Tongass land management plan; Pennsylvania Avenue (section 115); funding distribution formula for the Bureau of Indian Affairs (section 118); Cook Inlet Region, Inc. (section 121); Mount Graham Red Squirrel (section 317); Istook amendment—tax collections (section 322).

Another provision (section 329) dealing with sovereign immunity had been removed previously during Senate committee consideration of the Interior bill. During negotiations last week on the omnibus bill, a proposed provision was dropped that would have imposed a moratorium on any rulemaking by the Secretary of the Interior for class III tribal-State Indian gaming compacts.

As I mentioned, one of the provisions removed from the Interior bill was the Mount Graham provision concerning the construction of a large binocular telescope on Mount Graham, AZ. The provision amended Public Law 100-696, the Arizona-Idaho Conservation Act of 1988 [AICA] to permit the use of the alternative site 2 on Emerald Peak of Mount Graham. This provision was contained in the fiscal year 1996 omnibus appropriations bill (Public Law 104-134) as well and brought the site fully within AICA's exemptions from otherwise applicable laws.

On June 17, 1996, the U.S. Court Appeals for the Ninth Circuit in *Mount Graham Coalition* v. *Thomas*, 89 F. 3d 554 (9th Cir. 1996) validated the congressional action in the fiscal year 1996 Omnibus Appropriations bill. The provision effected a permanent change in AICA to ensure the prompt construction and operation of the telescope. Since AICA has been amended and has been validated by the Ninth Circuit Court of Appeals, it is no longer necessary to include the provision in the fiscal year 1997 appropriations act.

A gaming amendment is included that would amend the Rhode Island settlement law to clarify that for the

purposes of the Indian Gaming Regulatory Act (IGRA), Rhode Island settlement lands should not be treated as Indian lands. At the time that IGRA was passed, a colloquy was entered into that clearly stated the intent for the protections of the Rhode Island Indian Claims Settlement Act should remain in effect and that the Narragansett Indian Tribe should remain subject to the civil, criminal, and regulatory laws of the State of Rhode Island. These laws include the State prohibition against casino gambling. Other settlement laws exempt specific tribes or settlement lands from IGRA.

GRAND STAIRCASE-CANYONS OF THE ESCALANTE NATIONAL MONUMENT

Mr. President, I am very concerned that the administration recently created the Grand Staircase-Canyons of the Escalante as one of the largest national monuments in the continental United States without the consultation of Congress and without public comment. I expect the Secretary to fully comply with the provisions outlined in the proclamation dated September 18, 1996. Pursuant to the proclamation, it is my understanding that the Secretary will manage through the Bureau of Land Management.

As chairman of the Interior Appropriations Subcommittee, I would remind the administration that the designation of a national monument implicitly implies significant future funding obligations. In a period when funding requirements and maintenance backlogs are at an all-time high at the Department of the Interior, the need for a public policy debate over creating new national monuments, particularly as large as the Grand Staircase-Escalante National Monument, is extremely important. Ultimately, public input into the process serves the public good and assists the committee in its challenging funding priorities. I urge the administration to use the public process outlined in numerous environmental statutes dating back to the 1970's in order to designate such a large tract of land as this.

Due to the serious impacts of the national monument designation to the people of Utah and on budget allocations, it is my view that no other national monument should be designated in Utah until the management plan and final issues regarding the Grand Staircase-Escalante National Monument are resolved.

I am concerned about the lack of details on the monument beyond the information contained in the proclamation, including estimated costs to manage the monument and provide for a potential increase in visitors to the area. As a result, I am requesting the Secretary of the Interior to submit a report by February 1, 1997 that details the costs associated with the monument, the process for developing a management plan, and a detailed description of how affected parties will be involved in the process of developing the management plan. Also, I am requesting that the Secretary submit by April 1, 1997, a plan for implementing an exchange of the school trust lands located within the monument.

Mr. President, I said in these earlier remarks that as important and as widespread as this appropriations bill is, it neither represents all of the triumphs and change of direction in this Congress or all of the areas that remain undone.

We have accomplished a great deal in this Congress. We have saved some 50-plus billions of dollars in appropriated accounts, money that will not go on the credit card to be charged to later generations.

For our citizens, for our constituents, who were angry and upset with the current welfare system because it discouraged work and encouraged dependency, we have acted, if you are able-bodied, you will not be able to receive endless Government checks in the future.

Under the plan passed by Republican Members, with Democratic assistance in both bodies and signed by the President, if you can work, you will work or at least you will be off of the public welfare rolls. The gravy train is over. Reform that was only discussed in the abstract in past Congresses is a part of the law now.

For those of our citizens who wanted health care reform, without the massive bureaucracy that was proposed here just over 2 years ago, we have also acted. You will be able to change your jobs and take your health care with you. You will not be prohibited from getting health care insurance by reason of preexisting conditions. The changes that the people of this country actually wanted 2 years ago, but were overwhelmed by the complexity of the President's proposed system, the changes that they actually wanted are there. The overwhelming Federal control is not.

A line-item veto, talked about for years, but a reality in this Republican Congress.

A constitutional amendment to mandate a balanced budget, passed by the House of Representatives, and failed by only a single vote here in the U.S. Senate, and I think extremely likely to pass in the course of the next Congress.

Imposing on Congress the rules we have imposed on others, talked about in the past and become an accomplishment of this Congress.

A real crime bill, not the phony promise of 100,000 new police officers, a promise that was never kept, not midnight basketball, but an actual law, Megan's law, to protect children from sexual predators has passed and has become law.

Victims rights legislation, new antiterrorism bills, and most importantly, laws that will terminate or at least shorten the endless appeals in capital punishment cases, all passed.

Opening up our telecommunications system to new competition, talked about for a decade, passed under this Congress.

New safe drinking water laws for the people of the United States, important food safety measures, and the like, all accomplishments of this Congress that were only thought of or discussed in theory in Congresses in the past.

Mr. President, matched against these accomplishments, however, are those areas in which the job has not yet been completed. Some of these are the most important: A desperate attempt last year not just to reform our Medicare system, but to preserve and protect it for future generations of citizens, to postpone or to cancel the impending bankruptcy of the hospital insurance trust fund, the desire to see to it that Medicaid becomes more rational and less burdensome on our taxpayers and on our States.

All of these failed, Mr. President, in spite of being a part of the massive bill that would have balanced the Federal budget with these reforms and with tax relief, all failed because of the veto of the President of the United States.

We can look forward, Mr. President, if we have a Congress like this one, to another serious attempt to meet these most vital challenges to our future during the course of the next Congress.

Unfortunately, we have been faced by an administration, at least, and many Members of the Democratic Party who prefer the status quo. In fact, the great struggle during this Congress was between those who were in the majority for so many years who created these problems and who liked the status quo and those of us who felt that a major change in direction was important for us to reflect the views of the American people and regain their trust.

We must change these entitlement programs. We must see to it that they are available to the future without overwhelming the present and without overwhelming the generations who in fact through their work must pay for them.

But most of all, Mr. President, we need to provide tax relief for the American people. And no difference between the two parties can be greater than those who are perfectly content with the present system, with the present burdens, and those who feel that tax relief is necessary for working American families, and for those of us who beyond that feel that even significant amendments to the present Tax Code are very similar to putting Band-Aids on a corpse, and that what we really need to do, Mr. President, is to junk the present system, to repeal the present system, and to begin over again, and to create a system which is fair and which is productive, which is

simple and understandable, so that literally tens of thousands of employees of the Internal Revenue Service, and of all the organizations and professions throughout the United States who make their livings by finding loopholes in the Tax Code, can become accustomed to more productive and more constructive work in a growing society.

Mr. President, we must abolish the IRS as we have known it, but this is not so much a criticism of the IRS and the hard-working people who are employed by it, as it is of us, those of us who have created a system that is so susceptible to misuse, to unfairness, and to complexity, and to create a discontent in and among the American people.

So, Mr. President, as we finish this Congress, we have this vitally important and positive appropriations bill before the Senate. I believe we must also pass a bill relating to our parks and recreation areas that is now before the Senate in two different forms from the House of Representatives and, of course, the Federal Aviation Administration authorization bill so necessary to combat terrorism, to make our airways more secure, to provide for the construction of new airport facilities and new navigation facilities.

I hope we can accomplish all of that during the remainder of this day, but if we cannot, I hope our leadership will keep us throughout the week until each of these vitally important initiatives has become the law of the land so we can go home and tell the American people we have started to change the course in which this country is going. We are shifting it to a better and more responsible and more responsive direction, but we need more than 2 years to make up for all of the follies of the last two to four decades. With that, I recommend the passage of this bill.

I yield the floor.

Mr. SPECTER. Mr. President, I have sought recognition to comment on the pending legislation as we approach in the course of some 11 hours the end of the fiscal year at 12 o'clock midnight. We are faced with an appropriations process which I believe has severely undermined what we are supposed to be doing as legislators.

I just heard my distinguished colleague, Senator GORTON, make a comment about the price we are paying for what he considers to be extra appropriations on certain lines because we have not had an opportunity to consider the items in detail. I agree with him about that. My suggestion is we are paying even a higher price because we have not permitted the appropriations process to run its course because of the political differences and the very deterioration of our Senate process.

It was illustrated on the Interior appropriations bill where the majority leader had to take down the bill because of maneuvering—one side trying to gain an advantage on some politically popular items like education, something I have long supported in my capacity as chairman of the Appropriations Subcommittee which deals with appropriations. Then the bill which I have the chairmanship of, Labor, Health, Human Services, and Education, was never brought to the floor because of insufficient time and because of the determination that the bill could not be enacted in due course.

Instead, we have come to a situation where everything is rolled into one omnibus appropriations bill, which is a take-it-or-leave-it proposition, with the alternative being to close down the Government. The procedural posture today is that there is a second measure which can come before the Senate which is the Department of Defense conference report where the omnibus appropriations bill has been rolled in, as well as the immigration bill, which would not even allow an opportunity for amendment during consideration of any of the individual items if that is to be called up as the order of the day.

It is my hope, Mr. President, when we reconvene for the 105th Congress, we will take a look and change the rules of the Senate to prohibit bringing up extraneous, nongermane matters on appropriations bills. If that were to be the case, when we consider Interior, it is an Interior bill alone. When we consider Labor, Health, Human Services, and Education, we then direct our attention to that so we do not get into a situation where at the last minute we have no alternative but to say yes or no to such a massive bill. Or, when the extraordinary procedure is used of having a conference report, either to say yes or no without any amendment there.

I have spoken on this at some great length on Saturday, the day before yesterday, Mr. President, and at that time expressed my concern about a procedure which blurred the lines of separation of powers between the Congress, which is supposed to do the appropriations, then sending a bill to the President for his consideration, and a procedure in which the Chief of Staff, representing the executive branch, was party to negotiations with Congress before the bill was passed. This was an aberration, really a corruption, of the constitutional process of separation of powers, where each House acts, there is a conference, we send a bill to the President, and he makes the decision, signing or not, and then the Congress has the power to override.

What we have really seen, as I said at great length on Saturday, is a procedure where we have had the delegation of the President's authority to the Chief of Staff, with it being impossible for the President to know what was being agreed to on his behalf, again, I think, raising serious constitutional questions as to whether the President may delegate the authority in that way.

FOREIGN AID

Mr. SPECTER. Mr. President, I now want to comment for a moment or two about one aspect of the appropriations process. That is the issue of foreign aid, which is tied into U.S. policy in the Mideast, and what is happening today in Israel and the conflict between Israel and the Palestinians, the PLO and the forthcoming summit with leaders from the Mideast, which is to be held in Washington tomorrow and the day after.

I commented on this issue on Saturday as well, Mr. President. It is my hope that the parties, Israel and the Palestinian Authority, will be able to work out their problems. They are now coming to Washington with additional leaders from the Mideast in an overtone which may suggest pressure on the parties, pressure specifically on Prime Minister Binyamin Netanyahu.

It is my view, Mr. President, that it is intolerable to have a situation where the Palestinians are firing on Israeli soldiers. The Palestinians are firing on Israeli soldiers with rifles and ammunition provided by the Israelis, pursuant to the Oslo Accords, so that the Palestinian police can contain the areas in Gaza and the other areas in which they have been given a limited amount of local authority. There was never any intention that those Palestinian police were to be an army to engage in what is, in effect, virtual warfare against the State of Israel.

This makes us pause as we see a demonstration of what might occur if the peace process goes forward and if there is great authority for the PLO, the Palestinian Liberation Organization, now known as the Palestinian Authority, as to what they may hope or seek to accomplish with a separate Palestinian state. That certainly is not part of the agreement on the Oslo Accords.

A few months after the signing on the White House lawn of September 13, 1993, I and others from this body went to take a look at what was happening, and we had a chance to meet with Chairman Arafat, had a chance to visit Jericho and Gaza, and we saw the flags of a Palestinian state which was already being assumed when the ink was barely dry on the Oslo Accords signed a few months earlier. That was not what was intended.

Now we have a de facto Palestinian state with a police force estimated between 30,000 and 40,000, which is a veritable army. That context, I submit, Mr. President, is simply an intolerable situation.

Going back to September 13, 1993, when I saw Arafat honored on the White House Lawn, it was a very, very difficult day considering that this was

the man who was implicated in the murder of the United States charge in the Sudan in 1974. This is the man who was implicated in massive killings and terrorism against Israel. This is the man who led the hijacking of the *Achille Lauro* leading to the murder of Mr. Klinghoffer, who was pushed off the deck of the *Achille Lauro* in his wheelchair. It was pretty hard to sit on the White House Lawn and watch that man honored.

It seemed to me that if Prime Minister Rabin and then Foreign Minister Peres were willing to shake Arafat's hand, considering that Israel had suffered the most at the hands of PLO atrocities, then the United States ought to try to be helpful.

But now we see that a summit is planned. And, as this morning's press quotes, Arafat is betting that Prime Minister Netanyahu will come under pressure from President Clinton. If this is the case, I think it is time to rethink precisely what we are doing.

Israel voted for the Likud-Netanyahu government this past election expressing their concerns for security. It is very easy for people thousands of miles away from the locale to say, "Well, there ought to be pressure, and there ought to be in effect a determination, if not a dictation, as to what the Israeli elected officials ought to do."

It is my sense that Prime Minister Netanyahu can hold his own and make decisions for himself. But it is also my sense that there ought to be a statement made that the situation is intolerable with the Palestinians firing on Israeli soldiers, and that the United States ought not to exert pressure as to what the Israelis are to do in terms of their own security.

I had a chance to meet with Chairman Arafat last month in Gaza. And when he asked about aid from the United States, I reminded him about the provisions of our law which require the Palestinian authorities to change the PLO charter before such aid will be granted. He brought me a document which simply said that all provisions of the charter inconsistent with the September 13, 1993, agreement were invalid, which hardly reaches the issue about the provisions of the PLO charter calling for the destruction of Israel. It was obviously insufficient.

Then there are the provisions of American law which call upon the Palestinian authorities to take strong steps against terrorism. I think they have not done that. The closing of the border is difficult with Romanians and others coming in to handle jobs in Israel. But when the open borders mean terrorism, and destruction of Israeli buses, it is not hard to understand why as a matter of security those borders are closed.

When I discussed with Chairman Arafat the issue of terrorism, he discussed Abu Nidal, somebody that he knows well—had known well—and Abu Abbas who was implicated in the *Achille Lauro* hijacking and is under a 30-year sentence in absentia from the Italian court. Chairman Arafat said that Abu Abbas raised his hand to change the PLO charter. Those are matters which require a lot of consideration as to just what may be expected of the Israeli Government in terms of trusting the PLO and trusting the Palestinian authorities.

Do the leopards change their spots? Here we have the Palestinian police firing on Israeli soldiers with guns and bullets provided by the Israelis.

So let us take a look at what we expect to be done. Certainly the matters ought to be subject to negotiation. But we really ought not to allow the Palestinian authority and Arafat to get what they want at the bargaining table by rioting and warfare.

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

Mr. SPECTER. I thank the Chair. I yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. INHOFE. Mr. President, it appears that this afternoon we are going to be asked to vote on something in the form of an omnibus consolided appropriations bill which may be attached to the Defense appropriations bill.

This is it, Mr. President. This is the 2,000-plus pages that have been put together and assembled since last Friday. I would suggest there is not one Member of this body who has read this. But we go through that quite often and quite often we vote on things that we have not read in their entirety. But the reason that we are going to do this is because we on the majority side are somewhat held hostage. At least in the minds of many Members we are. We are talking about $6.5 billion more that we are going to agree to spend to respond to the President's request for programs that he was not able to get funded during the normal process—$6.5 billion with a "b", Mr. President. So we are talking about a major, major amount of expenditures.

All of this goes back to this horrible fear that we seem to be laboring under that—if we do not do this and we pass our appropriations bills, as we would normally do through the deliberative process, and the President vetoes these and we come to an impasse—the Government will stop at the end of the fiscal year which is taking place at this historic time right now, and that the Republicans would be responsible for it.

Last night I was watching a debate that took place wherein the distinguished minority leader, Senator DASCHLE, was talking about what happened when the Republicans shut down the Government. And I was waiting for a response because the Republicans did not shut down the Government. The Republicans only did those things that were responsible in the normal process that we live under here.

I remember so well in the other Chamber when the President of the United States, Bill Clinton, gave his State of the Union Message. And in that he had a very dramatic time during that 1 hour and 6 minutes—whatever it was—when he said, "And don't you ever shut down Government again," looking at us as if we were the ones who shut it down.

Well, anyway, apparently the vast majority of the American people believed that.

So, in fear for that and in responding to that, we are agreeing to fund a lot of his programs to the extent of $6.5 billion, programs such as the Goals 2000 Program.

You know, a few years ago I came home. And at that time my son was in the fourth or the fifth grade. I can't remember. And he was just beaming. I said, "Jimmy, something good must have happened today." He said, "Well, you know, dad. I am in the fourth grade." I said, "Yes. I know that." He said, "Dad, you know that in reading I am in the fifth grade." I said, "How does that work?" He said it was a brand new Federal program. "It is a pilot program we are trying. It is a system that is set up where if you accelerate in a certain area that you can then compete with those who are in perhaps a grade or two above you."

I remember it so well back many years ago. I was in grade school. I was in the first grade. It was a little country school named Hazel Dell. And there were eight grades in one room. There were eight rows. Back in those days, every time you missed a spelling word, you would walk up to the front of the class and they would swat you with a paddle. So I was a good speller, and I was in the first row because I was in the first grade. My brother was in the second row because he was in the second grade. My sister was in the eighth row because she was in the eighth grade. But every time they got around to me they had me sit over in the third row because I was a good speller.

Here is a brand new, innovative program that Government came up with here centralized in Washington. I would suggest to you that the Goals 2000 Program is one that has as its goalposts to bring the curriculum as close to Washington because our wisdom is so much greater here than it is out in the local areas. I do not agree

with that. And yet what we are doing today, if we do—and I think it is going to happen—is we will extend the funding of that by $255 million.

I see here that another $87 million is going to go to EPA. Now, I am on the Environment and Public Works Committee. I can tell you that our effort with the Republican majority has been to stop some of this foolishness that comes out of Washington and have, for instance, real Superfund reform, Superfund reform where we would repeal retroactive liability, repeal joint and several liability, bring the remedies from the Federal Government back to the State. The average Superfund cleanup that is supervised by the Federal Government is something like 8½ years, and yet we have some that are being done, or proposals being made that if we can do it under local jurisdiction with everyone involved such as in Bossier City, LA, where one of the oil companies had actually had a cleanup—they admitted they were the responsible party, so they made a proposal to the State of Louisiana, and it was agreed to by the State of Louisiana, by the city of Bossier City, by all of the local officials, by all the consumer groups, by everyone they could get together to clean it up in a year and a half, and yet the EPA in Washington said no. Now we have got it reversed. But at first they said no, and so it would take another 8 to 9 years to do.

And so with this thrust that we are trying to get to bring the remedies and bring as much back to the local area, we find we are increasing EPA by $87 million, and that is in addition to the $170 million that the Agency received above the fiscal year 1996 levels.

So, first of all, we have increased them by $170 million. Now we are increasing that by $87 million. So all these programs where the people are upset Government is coming, the EPA, and saying you are guilty of messing up the Superfund site when you sold used crankcase oil 10 years ago to a licensed contractor; therefore, we are going to fine you, this kind of abuse of the responsible and law-abiding taxpayers is going to continue.

The same is true with endangered species, wetlands. And I notice on this, if this is correct, that of the $6.5 billion, about half of that is coming from the BIF–SAIF fund. And if you recall, Mr. President, this was an amount of money that was set up to take care of future needs, a reserve, if you will, so that we do not have to go back through the same thing we went through a couple of years ago when this so-called bailout came about. So that the S&L's will be required to put in approximately a one-time expenditure of $3.1 billion. This will go into a fund so that in the event it is called upon the money will be there, and yet in fact through accounting they are going to be using this money for some other purposes, to fund these programs, the domestic programs the administration wants.

Now, if called upon, that money would still have to come from someplace, so what we are doing through accounting, smoke and mirrors, is just delaying this payment to buy something today.

And then I think the Chair would agree with me, the distinguished Senator from Arizona, who is occupying the chair at this time; he and I have stood on this floor and expressed our concern over what is happening to our defense budget many, many times in the last couple of years. We are in fact operating with a defense budget that is far below the minimum expectations of the American people. The vast majority of the American people when asked, should we be capable of defending the United States of America on two regional fronts, say yes.

And so we had the Bottom-Up Review under this administration. We came up with some figures as to what it would cost so we would be able to meet the minimum expectation of the people of America. And yet we are cutting more and more and more. In fact, it was not too long ago before the Senate Armed Services Committee that the Chiefs of the four services testified to this committee that we are $20 billion short—that is B, billion dollars short—of meeting those minimum expectations in our procurement account.

So, in fact, Mr. President, we are not meeting those expectations. And yet we find out something between $350 million and $1 billion is going to come out of defense—more money coming out.

Right now we have been trying to revive or keep alive a National Missile Defense System. We know for a fact there are some 25 to 30 nations that are either working on a weapon of mass destruction or already have it. We know there are two missiles owned by two countries right now in existence that can reach the United States. We know there are mad people out there like Saddam Hussein who murders his own grandchildren who are working on technology, and perhaps, if they are able, buy the missile technology to deliver a weapon of mass destruction. I understand that they have, at least we suspect they do have in their possession a biological weapon of mass destruction.

When we have a National Missile Defense System that is 90 percent paid for, all we have to do is kind of reach up into that high tier with maybe some of the 22 Aegis ships that we have and be able to knock down a missile coming at the United States while we have time to do it, instead of that they have cut funding for the National Missile Defense System to the point where it is now delayed. And each year that it is delayed is a year that a threat exists to the American people. And so it is a very serious thing, and we do not know for sure how much more money is coming out of defense. We do not know where it will come from. Is it going to come out of the National Missile Defense System? I hope not.

Is it coming out of the personnel account? Two-thirds of our defense budget is spent on people, and it would stand to reason some of it would have to come out of that. And yet we have soldiers serving right now who are actually on food stamps. So we cannot knock any more out of this account. In conventional warfare, we are now No. 8 or 9, depending on how you measure it, in ground forces. I think Pakistan has passed us up. In my opinion, that makes us No. 9. So we have a very serious problem in conventional forces and force strength, and we cannot afford any more cuts.

For that reason, Mr. President, I am going to listen attentively to the debate today to see if I missed something, but I am anticipating opposing it. I think I can justify it for no other reason than to say look at that, Mr. President. This is something that did not exist 5 days ago. There it is. That is what we will be voting on in order to keep Government from shutting down if the President should elect to shut down Government in the event that he were to veto our appropriation bill.

So I do not like what we are doing. I think we are caving into $6.5 billion of the President's domestic programs that he has been promoting that this Congress, both Houses agree is money should not have to be spent. Sooner or later we are going to have to do something about all the funding we do around here, the smoke and mirrors. We have troops right now in Bosnia. We were promised by this administration that in December of this year those troops would be back, and if we did not believe it—I did not believe it, and yet when we had a motion, or a resolution of disapproval so that we could keep from sending our troops over to do humanitarian work in the country where we do not have any strategic interests facing our Nation's security and we send them on over anyway, we missed that by four votes. And I suggest, Mr. President, if we had been honest with the American people, if the President had been honest with the American people and admitted that we were not going to have the troops back in 12 months, then there would be enough pressure on the people of this body, at least four of them to vote the other way and we would not have had to send troops over there. Now they said it is going to cost $2 billion. Just last week Under Secretary of Defense John White admitted it will be closer to $3.5 and probably be double that figure. So there is another few billion dollars that are not there, not accounted for.

So, Mr. President, I do not think that I could consciously, unless something happens today, unless I learn something that my studies have not found so far, vote to spend an additional $6.5 billion on additional programs for the President.

I yield the floor.

Mr. President, I have a message from the leader if it is all right. On behalf of the leader, I ask unanimous consent that the Senate remain in status quo with respect to debate only on H.R. 4278 until 2:30 today.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, and I will not object, I ask that we modify that to give me, if nobody else is seeking recognition, 7 or 8 minutes to speak as though in morning business.

Mr. INHOFE. Yes. Let me modify that to say not to start until 10 minutes from now, and the Senate remain in status quo with respect to debate on H.R. 4278 until 2:30 today.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

The Senator from Vermont is recognized.

RETIRING SENATE COLLEAGUES

Mr. LEAHY. Mr. President, first, I thank my friend and colleague from Oklahoma for his usual courtesy.

Mr. President, I had spoken before about various Members of this body who are retiring. But last week, as I was sitting at my home in Vermont, looking back down through the list of those retiring Senators of both parties—many of whom, incidentally, visited Vermont at one time or another—I was struck by a common thread. Let me tell you, first, of the Senators who are retiring, and then I will speak of that thread.

Senator MARK HATFIELD of Oregon, the distinguished chairman of the Senate Appropriations Committee; Senator PELL of Rhode Island, the former chairman of the Foreign Relations Committee and one of the most senior Members of this body—in fact, I believe the most senior one retiring this year; Senator SAM NUNN, former chairman of the Armed Services Committee and Senator BENNETT JOHNSTON, former chairman of the Energy Committee, both of whom came here a couple of years ahead of me; Senators DAVID PRYOR of Arkansas and PAUL SIMON of Illinois, and ALAN SIMPSON of Wyoming; WILLIAM COHEN of Maine. Senators NANCY KASSEBAUM of Kansas, HOWELL HEFLIN of Alabama, JIM EXON of Nebraska, BILL BRADLEY of New Jersey, and HANK BROWN of Colorado.

All of these people served with distinction, each for different reasons, each for their own area of expertise. But when you look down through this list, if you are one of the people who handicaps political races, you would have to say, whether you were Republican or Democrat, the thing they each have in common is that each one of these Senators would have been reelected. The Democrats in this list would have easily been reelected. The Republicans in this list would have been easily reelected. A couple have literally run without opposition in the past.

Maybe it says something about this body. To me, it says two things. One is that we have fallen, both here and in the other body, fallen into the habit of allowing things to become too partisan, too personal, and, in many instances, mean. There is too much aiming for the special interest groups of the ultraright or the ultraleft, too often looking for legislation that is designed to be a slogan, rather than to be of substance for this country.

But the people I have mentioned here are the ones who have tried to stay away from that, who have tried to bring us back to the middle, back to the center, realizing at some point Republicans and Democrats have to come together.

I think of MARK HATFIELD and what he has done, both as chairman and as ranking member of the Senate Appropriations Committee, where if there is ever a committee where individual interests sometimes go way over any question of ideology, it is in that committee. How many times he has brought us all together so we could come out for the good of the country.

Senator KASSEBAUM, who in her work, her quiet work but her steady and honest and complete work for this country and for this body, both as chair of her committee and as representative of her State, earned the complete applause of every Member of this body. There is not a Member here who is happy to see her retire. We all wish she would stay. That is obviously the way the people of Kansas feel.

Senator SAM NUNN, who is recognized by Republicans and Democrats alike as one of the foremost voices in this body on defense matters, someone to whom both Republican and Democratic Presidents have gone, as have the leaders of both parties in here, time and time again, for advice and help and support—again, one who brought Republicans and Democrats together.

BENNETT JOHNSTON, who is probably as able a legislator as I have ever served with, again, as both chairman and ranking member, taking legislation through this body that would have stymied anybody else.

ALAN SIMPSON, a person with whom I share a great friendship, as well as, I might say, the same barber. He has an ability and a very candid, some would say earthy style of bringing us together. He is also a person who has always kept his word to both sides of the aisle.

BILL COHEN is a man who brings a legislator's expertise but a poet's soul to this body. He has worked so often with me and with others on this side of the aisle to craft bipartisan solutions to some of the most difficult issues in this body, ranging from the use of our intelligence agencies to our worldwide power.

HOWELL HEFLIN, with whom I sat in both the Agriculture and Judiciary Committees, the wise judge who, when we are unable to reach a solution, somehow seems to come up with one—again, that brings us together.

CLAIBORNE PELL, one of the most distinguished Members of this body, and most loved Members, a quiet man who, again, always seems to do what is right.

PAUL SIMON, historian, at the time when this body is losing so much of its sense of history, again, he will bring us back, over and over again, not only to what is right but also what is historically right.

You see HANK BROWN, BILL BRADLEY, JIM EXON, people with whom I have either served on committees or committees of conference with them or as cosponsors of their legislation, again, understanding that at some point we have to come together.

I believe I mentioned all in this list, except for Senator DAVID PRYOR. It is no overstatement to say DAVID PRYOR is the friend of all of us. We all understand DAVID'S motivation in leaving, both for his health, and for his family—primarily for family. DAVID PRYOR would not have been contested this year. He would have won virtually by acclamation in Arkansas.

There is hardly a Member in this body who has not gone to DAVID at some point and said, "How do we get out of this impasse? How do we work it through?" I must say, President Clinton, in good days and in bad days, has been fortunate to have DAVID PRYOR here, as one he could speak to and from whom he could get an honest assessment, and also one we could speak to, whether we had good news or bad news for the President.

All of these people will be missed, but I don't think we can overstate that what we have lost by these Senators leaving. They leave behind a body that grows increasingly polarized, and the country suffers, the Senate suffers. I have said so many times—it is a mantra almost to me—this body should be the conscience of the Nation. The conscience is one where we come together collectively and speak to the best instincts in the greatest democracy history has ever known. This requires men and women of good will in both parties to recognize the differences in each other's region of the country, in each other's philosophy, sometimes in each other's goals * * * but, through all that, to understand ultimately it is the United States' goals

that must be met. It is this country's goals that must be met, but it is also the history and the integrity of this body that must be preserved.

We are making decisions for our children and for our grandchildren. They are going to live most of their lives in the next century. Our decisions should be for that next century, not just for this week's partisan gain or this election's partisan gain or this evening's news.

So I hope when we come back into session in January—and I will be one who will be here—that all of us, Democrats and Republicans alike, will pledge to follow the examples of so many of these Senators I have talked about, and work to come together, not to further polarize, both this body and the other body. In the end, neither party gains or loses an advantage by that polarization, but the country does lose—it loses badly.

Every one of us will say goodbye with fondness and affection to these Members of the Senate. Each one of us will miss these Members of the Senate, no matter which party we belong to. But I might add, if we want to honor their distinguished service in this body, let's do it by pledging, as we come into the 105th Congress, that we do it with more a sense of comity, of accommodation, of bipartisanship and upholding the Nation's interests and the responsibilities and respect and proud history of the U.S. Senate.

TRIBUTE TO JOHN A. DURICKA

Mr. LEAHY. Mr. President, I ask unanimous consent that an Associated Press article about John Duricka, written by my friend, Jim Abrams, be printed in the RECORD at the conclusion of my remarks.

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

[See exhibit 1.]

Mr. LEAHY. Mr. President, John Duricka was not only one of the finest photographers I ever knew, but also one of the best reporters of the Capitol. His photos will illustrate our history books for decades and generations to come. He was a man who suffered greatly in the last few months of his life with cancer, but few of us knew how badly it was.

I had a conversation with him at the beginning of the summer in which he talked of going to the Republican and Democratic Conventions. I told him I was looking forward to seeing him at ours and would probably be asking him for tips on exposures and angles for my own photography at that convention. It became too much, and he did not make it there, and more is the pity.

Last week, there was a memorial service for him there. Many spoke in eulogies of him. They spoke of a man who always had to get the photo but never forgot there were other photographers he worked with. Over and over, I saw him in a committee room where he would come in—you always get a nice smile from him—and I would see him go over, find a great angle, take a couple shots, and often, if there was a new photographer there, he would point that angle out to him.

The article that is printed at the end of this from the Associated Press speaks far better about him, as I think Mr. Abrams is far more eloquent than I, and that is why I want it included.

I was pleased to see the distinguished majority leader, Senator LOTT, also spoke about him last week. He well deserves that.

EXHIBIT 1

[From the Associated Press, Sept. 24, 1996]

AP PHOTOGRAPHER PRAISED

(By Jim Abrams)

The Senate and House opened their sessions Tuesday with tributes to AP photographer John A. Duricka, a veteran of Capitol Hill photo coverage who died Monday.

"The Senate and all Americans lost a true professional yesterday," Senate Majority Leader Trent Lott, R-Miss. "The measure of John's professionalism and dedication is he was on the job almost up to the time of his death doing what he loved and doing it wonderfully well."

Lott spoke of Duricka's "combination of mature demeanor and tough determination" and added: "All who treasure our freedoms of the press and free expression will miss his outstanding contributions to that end."

In the House, Rep. David Dreier, R-Calif., said Duricka was "a great friend to me." Dreier recalled that he delivered the eulogy at the funeral of Duricka's brother, a photographer at the San Gabriel Valley Tribune who was killed in a plane crash several years ago.

"John Duricka was a great man and he took wonderful photographs and he's one of those institutions in this Capitol who will be sorely missed," Dreier said.

Jonathan Wolman, AP's Washington bureau chief, said: "From Bobby Byrd to Newt Gingrich, John captured all the great figures of Congress. He illustrated the legislative process with pictures of leaders, lobbyists and hundreds of ordinary citizens who appeared in committee hearings."

Duricka was "a professional's professional," Sen. Patrick Leahy, D-Vt., recalled Monday. "His work was seen by millions who never knew his name. He was a familiar presence on Capitol Hill and I always looked for him among the photographers. He was a friend to many, and he will be missed."

Duricka, 58, had a 30-year career as an AP photographer. He was chairman of the congressional Standing Committee of Press Photographers, which represents the interests of still photographers.

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

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

OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. HATCH. Mr. President, we are coming on to the end of this session. It is a very, very important session. I think we have accomplished a lot in this Congress. We have made changes, seen major changes in how the budget is going to be handled. We now have the President of the United States talking, for the first time—a Democratic President talking for the first time—in 60 years about balancing the budget. I do not think we have any choice in the matter. We have to move toward a balanced budget.

But we have to see change in welfare reform. For the first time we have actually done something to entitlement programs. We have certainly passed a whole raft of other bills that are outlined in the newspapers almost on a daily basis. I think people are amazed what a terrific and important Congress this has been.

I would like to just take a few minutes this morning to address some of the measures in the omnibus bill before the Senate. One such measure is the vast bulk of the immigration conference report. The American people expect the Federal Government to control our country's borders. We have not yet done so. The American people expect Congress and the President to strengthen the national effort against illegal immigration.

Despite the last-minute political gamesmanship of the President, we have included in the omnibus measure provisions dealing with the problem of illegal immigration. This omnibus measure includes the conference report on H.R. 2202, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, with certain modifications to title V of the conference report. The legislative history of the immigration portion of this measure includes the legislative history of H.R. 2202 and S. 1664, with their accompanying committee reports and floor debates and, in addition, a joint explanatory statement of the committee of conference in Report 104–828.

The American people should make no mistake about it. There is no thanks owed to President Clinton for this achievement.

On August 2, 1996, President Clinton wrote to Speaker GINGRICH. Remarkably, he said unequivocally he would veto this bill even with the significantly modified Gallegly provision on public education for illegal aliens, a compromise which was not even yet at that point in final form. Republican conferees removed that provision from the proposed conference report, a draft of which was initially circulated on September 10, 1996. It was the only issue upon which the President said he would veto this bill.

The President had 2 weeks before the actual conference to register other objections to the draft conference report. Yet, only after the conference committee met and filed its report did the President interpose final objections related to title V of the conference report, which addresses immigrants' financial responsibilities. The President was apparently willing to shut down the Government or kill the immigration bill on his last-minute demands. The immigration measure in this appropriations bill now contains further concessions to the President. We have finally cleared away the obstructions, and it is my understanding that he no longer has any major objections.

This bill is an important bill. It cracks down on illegal immigration. Among other things, it builds up and strengthens the Border Patrol. It authorizes 5,000 new agents and 1,500 new support personnel for the Border Patrol over the next 5 years. This increase basically doubles the size of the Border Patrol. The proposal adds as many as 450 investigators and related personnel to combat illegal alien smuggling into our country over 3 years. The bill provides 300 personnel to investigate those who overstay their visas and thus remain illegally in our country.

The conference report requires the Attorney General to establish an automated entry and exit control system to match arriving and departing aliens and to identify visa overstayers. It authorizes acquisition of improved equipment and technology for border control, including helicopters, four-wheel drive vehicles, night vision scopes and sensor units, just to name a few things.

The bill adds civil penalties to existing criminal penalties against aliens illegally entering our country. Criminal and civil penalties for document fraud are increased. Criminal penalties against those who smuggle aliens into our country are also increased. High speed flight from an INS checkpoint is a felony punishable by up to 5 years imprisonment under this bill.

The bill makes it illegal to falsely claim American citizenship with the purpose of obtaining any Federal or State benefit or service or for the purpose of voting or registering to vote in any Federal, State or local election.

This bill gives the INS, the Immigration and Naturalization Service, wiretap authority in alien smuggling and document fraud cases.

The bill broadens the definition of "aggravated felony" for purposes of our immigration laws, even beyond the new Terrorism Act, to include crimes of rape and sexual abuse of a minor. It lowers the fine threshold for money laundering from $100,000 to $10,000. It decreases the imprisonment threshold for theft, violence, racketeering, and document fraud from 5 years to 1 year. That is the threshold. The broadened definition of aggravated felony adds new offenses related to gambling, bribery, perjury, revealing the identity of undercover agents, and transporting prostitutes. What does this mean? More criminal aliens will be deportable and fewer will be eligible for waivers of deportation.

To assist in the identification and removal of deportable criminal aliens, the bill authorizes the registration of aliens on probation or parole; requires that the criminal alien identification system be used to assist Federal, State, and local law enforcement agencies in identifying and locating removable criminal aliens; and authorizes $5 million per year from 1997 to 2001 for the criminal alien tracking center. The bill also provides that funds under the State Criminal Alien Assistance Program may be used for costs of imprisoning criminal aliens in State or local facilities.

This bill also provides that the fee for adjustment of status be increased to $1,000 and that at least 80 percent of those fees be spent on enhancing the Immigration and Naturalization Service's capacity to detain criminal aliens and others subject to detention. The bill also authorizes $150 million for detaining and removing deportable and inadmissible aliens.

To facilitate legal entry, this measure provides for increased full-time land border inspectors to ensure full staffing of border crossing lanes during peak crossing hours. The bill will result in the establishment of preinspection stations at a limited number of foreign airports.

These provisions are desperately needed to stem the tide of illegal immigration.

I note that I am not happy with all of the immigration bill's provisions, but I have to say, I do not think anybody is. The vast majority of them, however, are good provisions. But let me give you a couple of illustrations that I am not very happy about. It adds, for example, personnel for the enforcement of employer sanctions. I believe we ought to repeal employer sanctions outright as a costly, counterproductive failure. I cannot help but note that President Clinton has gone much further than even this bill proposes by signing an Executive order penalizing Federal contractors who violate the employer sanctions law. In doing so, he not only throws more good money after bad, he is inadvertently fostering more discrimination against those ethnic minorities in our society who look and sound different from the majority.

I am no fan of verification schemes, and I am skeptical that the pilot programs provided for in this bill will be worthwhile. Here again, the President is already using existing authority to implement verification projects, which I do not believe can work on a national scale.

Despite my great reluctance, I have agreed to allow the Attorney General to certify to Congress that she cannot comply with the mandatory criminal alien detention provisions of the recently enacted terrorism law, antiterrorism law, thereby obtaining a 1-year grace period which could be extended or can be extended under this bill for 1 additional year on top of that 1-year grace period. The Clinton administration has been tenacious in pleading with Congress to ease this criminal alien detention requirement. I would have preferred that the administration find facilities necessary to implement these provisions.

On balance, though, the immigration bill is a very worthy measure, and I am pleased that it has been included in the omnibus spending bill.

I ask unanimous consent a statement of legislative history be printed in the RECORD.

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

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

DIVISION C: STATEMENT OF LEGISLATIVE HISTORY

Division C shall be considered as the enactment of the Conference Report (Rept. 104–828) on H.R. 2202, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, with certain modifications to Title V of the Conference Report.

The legislative history of Division C shall be considered to include the Joint Explanatory Statement of the Committee of Conference in Report 104–828, as well as the reports of the Committees on the Judiciary, Agriculture, and Economic and Educational Opportunities of the House of Representatives on H.R. 2202 (Rept. 104–469, Parts I, II, and III), and the report of the Committee on the Judiciary of the Senate on S. 1664 (Rept. 104–249).

The following records the disposition in Division C of the provisions in Title V of the Conference Report. (The remaining Titles of the Conference Report have not been modified.) Technical and conforming amendments are not noted.

Section 500: Strike.

Section 501: Modify to amend section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193) to insert the provisions in section 501(c)(2) of the Conference Report relating to an exception to ineligibility for benefits for certain battered aliens. Strike all other provisions of section 501

Section 502: Modify to authorize States to establish pilot programs, pursuant to regulations promulgated by the Attorney General. Under the pilot programs, States may deny drivers' licenses to illegal aliens and otherwise determine the viability, advisability, and cost effectiveness of denying driver's licenses to aliens unlawfully in the United States.

Section 503: Strike.

Section 504: Redesignate as section 503 and modify to include only amendments to section 202 of the Social Security Act, and new effective date. Strike all other provisions.

Section 505: Redesignate as section 504 and modify to amend section 432(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide that the Attorney General shall establish a procedure for persons applying for public benefits

to provide proof of citizenship. Strike all other provisions.

Section 506: Strike.

Section 507: Redesignate as section 505.

Section 508. Redesignate as section 506 and modify. Strike subsection (a) and modify requirements in subsection (b) regarding Report of the Comptroller General.

Section 509. Redesignate as section 507.

Section 510. Redesignate as section 508. Modify subsection (a) and redesignate as an amendment to section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Strike subsection (b).

Section 511. Redesignate as section 509. Modify to change references to "eligible aliens" to "qualified aliens" and make other changes in terminology.

Section 531. No change.

Section 532. Strike.

Section 551. Modify to reduce sponsor income requirements to 125 percent of poverty level. Strike subsection (e) of Immigration and Nationality Act (INA) section 213A as added by this section. Make other changes to conform INA section 213A as added by this section to similar provision enacted in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Strike subsection (c).

Section 552. Modify to amend section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to include the provisions in section 552(d)(1) and 552(f). Strike all other provisions.

Section 553. Strike.

Section 554. Redesignate as section 553.

Section 561. No change.

Section 562. Strike.

Section 563. Redesignate as section 562.

Section 564. Redesignate as section 563.

Section 565. Redesignate as section 564.

Section 566. Redesignate as section 565 and modify to strike (4).

Sections 571 through 576. Strike and insert sections 221 through 227 of the Senate amendment to H.R. 2202, as modified.

Section 591. No change.

Section 592. Strike.

Section 593. Redesignate as 592.

Section 594. Redesignate as 593.

Section 595. Redesignate as 594.

Mr. ABRAHAM. Mr. President, I would like to ask the Chairman of the Judiciary Committee a few questions to clarify the changes made in the asylum provisions of the Senate immigration bill when the House and Senate conferees adopted the conference report on H.R. 2202, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. These provisions are included in this omnibus appropriations measure. Senator HATCH was a conferee on this legislation and was deeply involved in the development of this provision.

Section 604 of the conference report would add to the Immigration and Nationality Act a new section providing that an alien may not apply for asylum unless he or she demonstrates by clear and convincing evidence that the application has been filed within 1 year after the date of the alien's arrival in the United States. That section also includes two important exceptions—one for changed circumstances that materially affect the applicant's eligibility for asylum, and the other relating to the delay in filing an application. Would the Chairman explain the meaning of these exceptions?

Mr. HATCH. The conference report does include a 1-year time limit, from the time of entering the United States, on filing applications for asylum. Conferees also adopted important exceptions, both for changed circumstances that materially affect an applicant's eligibility for asylum and for extraordinary circumstances that relate to the delay in filing the application.

Like my distinguished colleague from Michigan, I too supported the Senate provision, which received overwhelming, bipartisan support in the Senate. In fact, that provision was adopted by an amendment in the Judiciary Committee that passed by unanimous consent. The Senate provisions had established a 1-year time limit only on defensive claims of asylum, that is, those raised for the first time in deportation proceedings, and provided for a good cause exception.

Let me say that I share the Senator's concern that we continue to ensure that asylum is available for those with legitimate claims of asylum. The way in which the time limit was rewritten in the conference report—with the two exceptions specified—was intended to provide adequate protections to those with legitimate claims of asylum. I expect that circumstances covered by the Senate's good cause exception will likely be covered by either the changed circumstances exception or the extraordinary circumstances exception contained in the conference report language. The conference report provision represents a compromise in that, unlike the Senate provision, it applies to all claims of asylum, whether raised affirmatively or defensively.

Mr. ABRAHAM. Would you say that the intent in the changed circumstances exception is to cover a broad range of circumstances that may have changed and that affect the applicant's ability to obtain asylum?

Mr. HATCH. Yes. That 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. The changed circumstances provision will deal with situations like those in which the situation in the alien's home country may have changed, the applicant obtains more information about likely retribution he or she might face if the applicant returned home, and other situations that we in Congress may not be able to anticipate at this time.

Mr. ABRAHAM. It is my understanding that the second exception, for extraordinary circumstances, relates to legitimate reasons excusing the alien's failure to meet the 1-year deadline. Is that the case?

Mr. HATCH. Yes, the extraordinary circumstances exception applies to reasons that are, quite literally, out of the ordinary and that explain the alien's inability to meet the 1-year deadline. Extraordinary circumstances excusing the delay could include, for instance, physical or mental disability, unsuccessful efforts to seek asylum that failed due to technical defects or errors for which the alien was not responsible, and other extenuating circumstances.

Mr. ABRAHAM. If the time limit and the exceptions you have discussed do not provide sufficient protection to aliens with bona fide claims of asylum, I will be prepared to work with my colleagues to address that problem. Is my understanding correct that you too will pay close attention to how this provision is interpreted?

Mr. HATCH. Yes. Like you, I am committed to ensuring that those with legitimate claims of asylum are not returned to persecution, particularly for technical deficiencies. If the time limit is not implemented fairly, or cannot be implemented fairly, I will be prepared to revisit this issue in a later Congress. I would also like to let the Senator from Michigan know how much I appreciate his commitment and dedication on this issue.

Mr. ABRAHAM. Thank you. I would likewise thank the Chairman of the Judiciary Committee for his diligent efforts on this issue in conference and his explanation of the conference report's provisions.

Mr. HATCH. I will note, briefly, that the bill modifies the antiterrorism law's provisions on summary exclusion, in order to better assure that those who are bona fide asylees are not erroneously compelled to leave this country.

On a related point, the Clinton administration has recently announced its plans to cut refugee admissions next year to 78,000. I oppose this cut. In fiscal year 1995, the level was 110,000. Last year, the level of refugee admissions was set at 90,000. I believe we should set the same level of 90,000 refugee admissions for next year. A further cut is unwarranted, especially with the renewed steps against alien immigration embodied in the bill. Moreover, I think it sends the wrong signal to the world.

A Hatch-Biden substitute for my Child Pornography Protection Act, S. 1237, has been included in the omnibus measure. I thank the appropriators on both sides of the aisle for their cooperation in including this important measure in this omnibus bill. The legislative history of the child pornography provisions of this bill includes the legislative history of S. 1237, including the report of the Committee of the Judiciary, Report 104-358.

Senators FEINSTEIN and GRASSLEY have important provisions in the child pornography provisions of this measure and I want to thank them, as well as Senator BIDEN, for their important work on these matters. They have done

a very good job, and I have a lot of respect for my colleagues.

CHILD PORNOGRAPHY PREVENTION ACT

Mr. HATCH. Mr. President, modern computer imaging and morphing technology has made possible the production of pornographic depictions of minors which are virtually indistinguishable to the unsuspecting viewer from unretouched photographs of actual children engaging in sexually explicit conduct.

Such computer generated child pornography has many of the same harmful effects, and thus poses the same threat to the physical and mental health, safety and well-being of our children and of our society as pornographic material produced using actual children. However, because current Federal law pertaining to the sexual exploitation of children and the production, distribution, possession, sale, or transportation of child pornography is limited to material produced using actual children engaging in sexually explicit conduct, computer generated child pornography is presently outside the scope of Federal law.

The omnibus bill includes the Child Pornography Prevention Act of 1996. This act will close this computer generated loophole and give our law enforcement authorities the tools they need to protect our children by stemming the increasing flow of high-technology child pornography.

The Child Pornography Prevention Act, as introduced, as S. 1237, addresses the problem of "high-tech kiddie porn" by creating a comprehensive statutory definition of the term "child pornography" to include visual depictions of sexually explicit conduct: First, produced using children engaging in sexually explicit conduct; Second, computer generated depictions which are, or appear to be, of minors engaging in sexually explicit conduct; or Third, materials advertised, described, or otherwise presented as a visual depiction of a minor engaging in sexually explicit conduct.

The act establishes a new section in U.S. Code Title 18, §2252A, prohibiting the distribution, possession, receipt, reproduction, sale, or transportation of child pornography. The act contains congressional findings as to the harmful effects of child pornography and the threat to the physical and mental health, safety, and well-being of children and society posed by child pornography, both computer generated depictions and depictions produced using actual children. The act also increases the penalties for child sexual exploitation and child pornography offenses.

At the Judiciary Committee markup of S. 1237, Senator BIDEN expressed concern that the bill, as introduced, may not be upheld by the courts. Specifically, Senator BIDEN was concerned as to the constitutionality of the provision in the bill's definition section that classifies as child pornography a visual depiction which appears to be of a minor engaging in sexually explicit conduct, even if no actual child was involved in its production.

In *New York* v. *Ferber*, 458 U.S. 747 (1982), the Supreme Court, while upholding prohibitions on child pornography, not otherwise obscene, where the pornography included actual minors, noted that "distribution of descriptions or other depictions of sexual conduct, not otherwise obscene, which do not involve live performance or photographic or other visual reproduction of live performances, retains First Amendment protection."

Senator BIDEN, and some others, worried that, to the extent the bill reached both child pornography that is within Ferber's four corners, i.e., material produced utilizing actual minors, and visual depictions of those who merely appear to be minors—through the use of computer "morphing," for example—it could be struck down. In light of this concern, Senator BIDEN wanted to include in the bill a separate section expressly covering pornography involving identifiable minors, so that if the broader appears to be provision is struck down, coverage of identifiable minor child pornography will survive.

I am confident that the Child Pornography Prevention Act's prohibition on computer-generated visual depictions which appear to be of a child engaging in sexually explicit conduct would be found constitutional, a view shared by the Department of Justice and other legal experts in this field, and the definition of child pornography contained in this legislation would be upheld by the courts in its entirety.

I believe the Supreme Court, in light of technological advances since the Ferber decision and the record Congress has established with respect to the harmful effects of computer-generated material which appears to be of a child engaging in sexually explicit conduct, including the use of such material to seduce children for sexual abuse and exploitation, will find it constitutional.

At the same time, I agree that it would be reasonable to include in the act a fall-back provision specifically covering only identifiable minor material. Since this type of material involves a depiction of, and is therefore likely to result in harm to, a real child, i.e., the child being depicted, such a provision is indisputably constitutional under Ferber and would provide an enforceable weapon against at least some computer-generated child pornography in the event that the act's broader prohibition on computer-generated material which appears to be of a child engaging in sexually explicit conduct is overturned by the courts.

Despite concerns about the method proposed by Senator BIDEN to address the problem of identifiable minor pornographic material, I agreed at the markup to accept his amendment, with the understanding that we would work together to improve the way we are achieving his objective.

Senator BIDEN's amendment added to S. 1237 another new statutory section, as 18 U.S.C. §2252B, which is directed at one particular type of computer-created or generated images—visual depictions which have been created, adapted or modified to make it appear that an identifiable minor was engaged in sexually explicit conduct. The term identifiable minor was defined to mean a minor who is capable of being recognized as an actual person by, for example, his face or other distinguishing feature or physical characteristic, although a prosecutor would not be required to prove the minor's actual identity.

Section 2252B duplicated, with respect to identifiable minor material, the prohibitions and penalties established under §2252A for the distribution, possession, receipt, sale or transportation of material which would be classified as child pornography under this bill. The bill, as modified in the Judiciary Committee, however, did not expressly include identifiable minor material in the statutory definition of "child pornography," although such material could be classified as child pornography under the definition's "appears to be" language.

I agreed with the goal of Senator BIDEN's amendment. Visual depictions of a minor engaging in sexually explicit conduct can haunt that person for his or her entire life. In addition, there is the threat that a child molester or pedophile could take pictures of a child he finds sexually desirable and then produce pornographic depictions featuring that child engaging in sexual conduct—depictions which he can use to stimulate his own sexual appetites, sell or distribute to others, or use in an effort to seduce that child or others into submitting to sexual exploitation.

The threat posed by, and the harm resulting from, visual depictions of identifiable minors which have been created or altered so as to make it appear that the minor is engaging in sexually explicit conduct is sufficiently distinct and serious to warrant inclusion in the act of language specifically addressing this type of material.

My concern regarding the Biden amendment was directed solely at the method used to achieve the goal of prohibiting pornographic material which uses the image or depiction of an identifiable minor as a clearly separate offense. It was, in my view, unnecessarily duplicative to enact two virtually identical statutory sections, 2252A and 2252B, to deal with computer created or generated child pornography, as the committee-passed bill with Senator BIDEN's amendment did.

Further, it was inconsistent and potentially very confusing specifically to address identifiable minor pornographic material in the context of this bill, to treat such material in the identical manner as material formally classified as child pornography under this bill, but not to include identifiable minor material in the bill's statutory definition of child pornography. It seemed to me that there is a far stronger case for the creation of one new section to deal with the new technology of child pornography, rather than two.

In addition, if we included in this legislation a provision dealing specifically with identifiable minor material, but failed to include such material in the bill's definition of child pornography, this fact could be seized upon by child pornographers and pedophiles to make the legal argument that identifiable minor material cannot be considered child pornography within the meaning of federal law. This could have an adverse impact on law enforcement efforts where, for example, an individual's involvement with or prior conviction for child pornography was relevant to an investigation or prosecution, or a factor in sentencing.

Following continued discussions, Senator BIDEN and I concluded that the most appropriate and effective method of dealing with identifiable minor material, and that most compatible with the framework for dealing with all forms of child pornography set out by the act, is to include in the proposed statutory definition of the term child pornography a subsection specifically covering such material. The Child Pornography Prevention Act contained in the omnibus bill is the Hatch/Biden substitute.

Under this bill, a visual depiction would be classified as child pornography if such visual depiction has been created, adapted or modified to appear that an identifiable minor is engaging in sexually explicit conduct. The term identifiable minor would be defined as a person who was a minor at the time the visual depiction was created, adapted, or modified, or whose image as a minor was used in creating, adapting, or modifying the visual depiction, and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature, but such term does not require proof of the minor's actual identity.

Modifying the definition of child pornography to include identifiable minor child pornographic material, eliminates any need to establish an additional section in title 18 pertaining specifically and exclusively to that particular type of material. Since identifiable minor material would be classified as child pornography, its distribution, possession, receipt, reproduction, sale or transportation would, like all other material so classified pursuant to the Act, be prohibited under the section 2252A created under this bill.

The act also resolves any concern as to the severability of the definition's identifiable minor provision in the event the definition's appears to be language were to be struck down.

S. 1237, as introduced, resolved the question of severability by the bill's severability clause, which explicitly states that if any provision of this act, which would include the legislation's definition of child pornography, is held to be unconstitutional, the remainder of the act shall not be affected. In order to set to rest any lingering concern, however, the Hatch/Biden substitute amended the act's severability clause to specifically state that if any provision of section of the definition of the term child pornography is held to be unconstitutional, any remaining provision or section of the definition shall not be affected.

We know that child pornography aggravates child sexual molestation. We must take steps to deal with this latest technological challenge to our laws protecting children. I believe that the Child Pornography Prevention Act shows that the intent of Congress is not to stand idle and thereby abet this pernicious activity. I urge all senators to support this act.

I ask unanimous consent a section-by-section analysis of the child pornography provision be printed in the RECORD.

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

CHILD PORNOGRAPHY PREVENTION ACT OF 1996

SECTION 1

This section sets forth the short title for the legislation, the "Child Pornography Prevention Act of 1996."

SECTION 2

This section sets forth a statement of Congressional findings with respect to child pornography and computer-generated depictions of, or which appear to be of, minors engaging in sexually explicit conduct. Child pornography is a form of sexual abuse and exploitation which can result in physical or psychological harm, or both, to children. Child pornography permanently records the victim's abuse, can cause continuing harm to the depicted individual for years to come, can be used to seduce minors into sexual activity, and is used by pedophiles and child sex abusers to stimulate and whet their own sexual appetites.

New photographic and computer imaging technologies are capable of producing computer-generated visual depictions of children engaging in sexually explicit conduct which are virtually indistinguishable to an unsuspecting viewer from unretouched photographs of actual minors engaging in such conduct. The effect of such child pornography on a child molester or pedophile using the material to whet his sexual appetites, or on a child shown such material as a means of seducing the child into sexual activity, is the same whether the material is photographic or computer-generated depictions of child sexual activity. Computer-generated child pornography results in many of the same types of harm, and poses the same danger to the well-being of children, as photographic child pornography, and provide a compelling governmental interest for prohibiting the production, distribution, possessing, sale or viewing of all forms of child pornography, including computer-generated depictions which are, or appear to be, of children engaging in sexually explicit conduct.

SECTION 3

This section amends the definition of the term "visual depiction" at 18 U.S.C. §2256(5) to include stored computer data.

This section further amends Title 18 of the United States Code by adding a new subsection, as 18 U.S.C. §2256(8), establishing a definition of the term "child pornography," which is defined as "any visual depiction, including any photograph, film, video, picture, drawing or computer or computer-generated image or picture, which is produced by electronic, mechanical or other means, of sexually explicit conduct, where: (1) its production involved the use of a minor engaging in sexually explicit conduct, or; (2) such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct; (3) such visual depiction has been created, adapted or modified to appear that an "identifiable minor" is engaging in sexually explicit conduct; or (4) it is advertised, distributed, promoted or presented in such a manner as to convey the impression that it is a visual depiction of a minor engaging in sexually explicit conduct."

The term "identifiable minor" would be identified in 18 U.S.C. §2256(9) to mean a minor who is capable of being recognized as an actual person by, for example, his face or other distinguishing feature or physical characteristic, although a prosecutor would not be required to prove the minor's actual identity.

SECTION 4

This section adds a new and distinct section to title 18 of the United States Code, as 18 U.S.C. §2252A. This section makes it unlawful for any person to knowingly mail, or ship, or transport child pornography in interstate or foreign commerce; to receive or distribute in interstate or foreign commerce child pornography, or material containing child pornography that has been mailed, or shipped, or transported in interstate or foreign commerce; or to reproduce child pornography for distribution through the mail. This section further makes it unlawful in the special maritime and territorial jurisdiction of the United States, or on any land or building owned or controlled by the United States, or in the Indian territory, to knowingly sell, or possess with intent to sell, any child pornography; or to possess any book, magazine, periodical, film, videotape, computer disk, or any other material that contains 3 or more images of child pornography.

Section 2252A mirrors with respect to "child pornography" (as that term is defined under Section 3 of this bill) the prohibitions on the distribution, possession, receipt, reproduction, sale or transportation of material produced using an actual minor engaging in sexually explicit conduct contained in 18 U.S.C. §2252. The penalties in §§2252 and 2252A would be identical. Violation of paragraphs (1), (2), or (3) of §2252A(a) pertaining to the distribution, reproduction, receipt, sale or transportation of child pornography would be fined or imprisoned for not less than 15 years, or both; a repeat offender with a prior conviction under Chapter 109A or 110

of Title 18, or under any state child abuse law or law relating to the production, receipt or distribution of child pornography would be fined and imprisoned for not less than 5 years nor more than 30 years. Any person who violates paragraph (4) of §2252A(a) pertaining to the possession of child pornography would be fined or imprisoned for not more than 5 years, or both; a repeat offender with a prior conviction under Chapter 109A or 110 of Title 18, or under any state law relating to the possession of child pornography would be fined and imprisoned for not less than 2 years nor more than 10 years.

This section also establishes an affirmative defense for material depicting sexually explicit conduct where the material was produced using actual persons engaging in sexually explicit conduct and each such person was an adult at the time the material was produced, provided the material has not been pandered as child pornography.

SECTION 5

This section amends 18 U.S.C. §2251(d) to increase the penalties for sexual exploitation of children. An individual who violates §2251 would be fined or imprisoned for not less than 10 years nor more than 20 years, or both. A repeat offender with one prior conviction under Chapter 109A or 110 of Title 18, or under any state law relating to the sexual exploitation of children would be fined and imprisoned for not less than 15 years nor more than 30 years; an individual with two or more prior such convictions would be fined and imprisoned for not less than 30 years nor more than life. If an offense under §2251 resulted in the death of a person, the offender would be punished by death or imprisonment for any term of years or for life.

SECTION 6

This section amends 18 U.S.C. §2252(d) to increase the penalties for offenses involving material produced using a minor engaging in sexually explicit conduct. As amended, 18 U.S.C. §2252 will provide the identical penalties as 18 U.S.C. §2252A for offenses relating to the distribution, possession, receipt, reproduction, sale or transportation of prohibited child pornographic material.

SECTION 7

This section amends the Privacy Protection Act, 42 U.S.C. §2000aa, to extend the existing exemption for searches and seizures where the offense consists of the receipt, possession or communication of information pertaining to the national defense, classified information or restricted data, to include an exemption for searches and seizures where the offense involves the sexual exploitation of children, the sale or buying of children, or the production, possession, sale or distribution of child pornography under Title 18 of the United States Code, 2251, 2251A, 2252, or 2252A.

SECTION 8

This section, the Amber Hagerman Child Protection Act of 1996, amends 18 U.S.C. §§2241(c) and 2243(a) to provide for a mandatory sentence of life in prison for repeat offenders convicted of sexual abuse of a minor or aggravated sexual abuse of a minor.

SECTION 9

This section includes in the bill a severability clause providing that in the event any provision of the bill, specifically including any provision or section of the definition of the term child pornography, amendment made by the bill, or application of the bill to any person or circumstance is held to be unconstitutional, the remainder of the bill shall not be affected.

Mr. HATCH. Mr. President, in addition, we were able to include a measure I sponsored which reimburses Billy Dale and the other members of the White House Travel Office for the legal expenses they incurred in defending themselves against the Clinton administration's politically generated investigation into the office. I am pleased that the Congress will soon pass this measure.

I want to commend Senator GREGG of New Hampshire for his efforts in securing $1.4 billion in funding for our Federal antiterrorism effort. As well, this bill enhances the Federal commitment to combat illegal drugs by providing a significant increase in our drug control budget. I have to say that Senator GREGG has played a significant and pivotal war in the antiterrorism fights of this past Congress. He has done a terrific job and he deserves a lot of credit for the strides we have been able to make. I want to pay public acknowledgment to him for the good work he has done.

With regard to the significant increase in our drug control budget, for example, the bill provides $140 million in funding for five new high intensity trafficking area task forces, one of which the Judiciary Committee expects will serve several Rocky Mountain States.

An additional $197 million for the Drug Enforcement Administration, $46 million more than the President's request, has been provided as well as a significant increase in funding for the Office of National Drug Control Policy, the drug czar's office.

Further, the omnibus bill also contains legislation which I introduced to allow the Office of Independent Counsel to obtain an additional 6-month extension for travel expenses. Ken Starr needs this time extension, and I am pleased the leadership saw fit to include this measure.

As well, the bill contains $11.4 million in funding for the first phase of construction of a long-needed annex for the Federal courthouse in Salt Lake City. This has been a priority of the judicial branch for some time and it is a highly warranted expenditure.

Moreover, I urged the negotiators to include a provision which clarifies the effective date of an important change to the rules of evidence which allows evidence of prior conduct to be admitted into evidence in Federal sex offense cases. This was a much needed clarification which Senator KYL and Congresswoman MOLINARI urged be adopted. I am very pleased it was included.

Finally, I express my opposition to the medical patents provision which was included in this bill. This measure was added notwithstanding the fact that there were no Senate hearings, and over the objections of myself, the chairman of the Finance Committee and the U.S. Trade Representative. It is an unprecedented change to our patent code and it is my intention to closely scrutinize the implementation of this new law.

Mr. President, before I close, I wanted also to make a few comments about a provision tucked inside this omnibus legislation which is of great concern to me. The provision would functionally eliminate the patenting of medical procedures.

I know that the authors of this provision are doing what they think is in the best interest of our citizens.

Nevertheless, I take exception to their amendment on medical process patents. I think this amendment is bad patent policy and questionable trade law.

A patent that is not enforceable is like no patent at all. That is simply what this issue boils down to.

And further, to exempt large multimillion-dollar organizations such as HMOs from the reach of patent code enforcement, flies in the face of the American tradition of encouraging individual initiative.

My final concern, a very serious concern, is about the Uruguay Round Agreements Act [URAA], the General Agreement on Tariffs and Trade [GATT] implementing legislation. Substantial questions have been raised about whether this provision is consistent with the Agreement on Trade-Related Intellectual Property [TRIPs]. In fact, it now appears that the amendment may not be consistent with TRIPs, a grave matter of international import.

I also have concerns about the process implications of inserting this language in the appropriations bill. As chairman of the Judiciary Committee, I try to take special care of all of the statutes under the Committee's primary jurisdiction such as the patent code.

As a member of the Finance Committee, I am also charged with the responsibility of upholding the laws that affect our Nation's international trade.

In this regard, after serious study of this issue, on September 27, Chairman ROTH and I wrote to our colleagues, Senators LOTT, DASCHLE, HATFIELD, and BYRD, and indicated our concern about inserting this provision in the final legislation due to its unstudied impact.

Mr. President, I ask unanimous consent that a copy of that letter be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, DC, September 27, 1996.

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

DEAR MR. LEADER: As Chairmen of the Senate Finance and Judiciary Committees, we strongly oppose inclusion of proposed section 616 in the omnibus appropriations bill.

Inclusion of the provision, which concerns medical procedure patents, is inappropriate for several reasons.

Section 616 implicates U.S. obligations under an international trade agreement, specifically the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) administered by the World Trade Organization (WTO). As a result, this aspect of section 616 falls under the Senate Committee on Finance's jurisdiction on international trade agreements.

Moreover, the provision raises serious questions regarding U.S. compliance with its obligations under TRIPs. It could also establish a precedent which other countries might invoke to deny or weaken patent protection afforded to U.S. industry under the TRIPs. The Committee on Finance has not had an opportunity to hold a hearing on this matter to consider these broader ramifications for U.S. trade policy.

Section 616 is very controversial and constitutes a significant departure from principles of American patent law that have been on the books for over two hundred years. The amendment would preclude a certain class of patent-holders from enforcing their patent rights against infringement, a change that renders these patents virtually meaningless. That there is no consensus on this significant change in U.S. patent law is underscored by the fact that the Clinton Administration, the American Intellectual Property Law Association, the Intellectual Property Owners, and the Intellectual Property Law Section of the American Bar Association are on record as opposing the provisions contained in section 616.

As noted, section 616 has not been properly vetted through the Committees of jurisdiction. This is exactly the type of complex, technical provision that should not be hastily included in end-of-the-session omnibus legislation. As two Committee Chairmen with jurisdiction over this provision, we urge that you not include this provision in the bill.

Sincerely,

ORRIN G. HATCH,
Chairman, Committee on the Judiciary.
WILLIAM V. ROTH, JR.,
Chairman, Committee on Finance.

Mr. HATCH. In short, this letter said, that as chairmen of the committees with jurisdiction over key substantive issues raised by the medical process patent amendment, we did not think that this complex, technical legislation with such a substantive impact should be included at this time and in this vehicle given there has been no study by the relevant authorizing committees. I feel it would have been preferable to look carefully before we leap into this legislative abyss which has such far reaching precedential significance.

Subsequent to that letter, I received a letter from the General Counsel of the Office of the U.S. Trade Representative [USTR] stating, in sum, that the proposed policy may run afoul of the TRIP's agreement and also encourage our trading partners to follow this example to discriminate against other types of technologies.

I ask unanimous consent to place in the RECORD at this point a copy of this September 27, 1996 letter from the Office of the U.S. Trade Representative with respect to the application of articles 27, 28 and 30 of TRIP's and how our trading partners may use this unfortunate precedent. I wish to commend the staff at USTR for their work on this vexatious issue.

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

OFFICE OF THE U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, September 27, 1996.

Hon. ORRIN G. HATCH,
U.S. Senate, Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN HATCH: You have requested the Office of the U.S. Trade Representative's views on whether the proposed limitation on patient infringements relating to a medical practitioners performance of a medical activity are consistent with U.S. obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement). As I understand the proposal, it would generally deny the remedies available under title 35 for infringement of patents on diagnostic, therapeutic and surgical techniques.

USTR has serious concerns about the consistency of this provision with the TRIPs Agreement. Moreover, we believe that the proposal sets a damaging precedent that other TRIPs Members might apply to other technologies.

Although TRIPs Article 27:3 permits Members to exclude diagnostic, therapeutic and surgical techniques from patentability, we believe that if a member makes patents available for this field of technology, a Member must accord the full rights required under the TRIPs Agreement. Article 27:1 requires that patent rights be enjoyable without discrimination as to the field of technology. Those rights are specified in Article 28 and include the right to prevent third parties from the act of using a patented process. Moreover, TRIPs Articles 44 and 45 specify remedies, including injunctions and damages; that must be made available to address patent infringement.

While TRIPs Article 30 permits Members to provide limited exceptions to the exclusive rights conferred by a patent, such exceptions must not unreasonably conflict with the normal exploitation of the patent and must not unreasonably prejudice the legitimate interests of the patent holder. Precluding the grant of damages and injunctive relief for patent infringement under the circumstances set forth in the proposed legislation, goes far beyond other exceptions provided in title 35 and raises questions about whether the exception is covered by Article 30.

We are particularly concerned because other TRIPs Members might follow this example and apply this type of exception to other technologies. We could be seen as endorsing this type of action.

Please contact me or my staff if we can provide further information or assistance.

Sincerely,

JENNIFER HILLMAN,
General Counsel.

Mr. HATCH. Now that this amendment will become law, I hope that those who interpret the bill as being consistent with TRIP's are correct. For if they are not, we will have unwittingly shown the way for our trading partners to absolve themselves of their responsibilities under TRIP's.

The stakes are high. Virtually every trade expert believes that worldwide adherence to TRIP means jobs for American workers, and lowered costs for American consumers as piracy of products is reduced and others pay their fair share of research and development costs.

Let me take a few moments to explain my concern about the impact that this provision will have on the patent code.

Section 101 of the patent code has been essentially unchanged since 1793. Section 101 broadly states: "Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent * * *"

One leading Supreme Court case, Diamond versus Diehr, decided in 1981, quoted approvingly from the Judiciary Committee bill report on the 1952 recodification of the patent code, and emphasized that patentable subject matter under section 101 "includes everything under the sun invented by man" and noted that process patents have been available since 1793.

Judge Giles Rich of the Federal Circuit is one of America's greatest all-time experts in patent law. Circuit Judge Rich drafted the 1952 recodification in which the word "process" was substituted for "art"—the first and only change in section 101 since 1793.

Incidentally, I am told that Thomas Jefferson apparently helped draft this statute and in his capacity of Secretary of State had a ministerial role in actually issuing some of our Nation's first letters patent.

In a leading decision in the area of biotechnology, In Re Chackrabarty, written in 1979 by Judge Rich—then of the predecessor Court of Customs and Patent Appeals —and affirmed by the Supreme Court in 1981, Judge Rich noted that a broad interpretation of what is patentable under section 101 has served our Nation well through out history:

> The present recital of categories in section 101. . . has been the same ever since the Patent Act of 1793, except for substituting "process" for "art" and defining it . . . to include art. For nearly 200 years since, those words have been liberally construed to include the most diverse range imaginable of unforseen developments in technology. The list is endless and beyond recitation. We merely suggest that the Founding Fathers and the Congresses of the past century could not have foreseen the technologies that have allowed man to walk on the moon, switch travel from railroads to heavier- than-air craft, fill the houses with color TV, cure normally fatal diseases with antibiotics produced by cultures of molds . . . and give to schoolchildren at small cost pocket calculators with which they can produce square roots on an . . . integrated circuit so small the circuits are not visible to the naked eye

. . . We believe section 101 and its predecessor statutes were broadly drawn in general terms to broadly encompass unforeseeable future developments.

In contrast to this soaring rendition of why a policy of broad patentability is beneficial to society, comes now this cleverly drafted and hastily adopted medical procedure patent amendment.

Although the amendment goes through the back door of the enforcement provisions of section 287, when all is said and done the practical effect is to preclude an important class of endeavor—medical procedures—from protection under section 101.

Somehow I cannot help but think that Thomas Jefferson and Judge Rich and many others will be disappointed in this shrinking of the patent code.

Putting aside my major concerns about the trade ramifications, in terms of pure patent law, I think there should be a very heavy burden on those advocating change of a law that appears to be working well and has worked well for a long time.

In my view, this burden has not been met.

What is broken? Can anyone show me an actual example of health care negatively affected due to the existence of a procedure patent?

How can we be sure that research on tomorrow's medical procedures will continue apace absent patent protection?

Frankly, I find it odd that in the case that precipitated this alleged "crisis" that compels adoption of this particular amendment before there has been even one hearing—the Pallin "stitchless" cataract surgery process, the patent was not upheld by the courts.

Some argue that such process patents will drive up health care costs. But in the Pallin case the requested $4 per operation fee was much less than the $17 per stitch charge, so money was saved.

Where is the crisis that justifies inviting considerable mischief by our trading partners in dragging their feet in implementing TRIP's?

If we have unwittingly misinterpreted TRIP's, we will all be asking down the road, where was the Finance Committee and the Ways and Means Committee when this happened?

Before we set this precedent by adopting the curious rule that you-can-have-a-patent-but-you-just-cannot-enforce-it, would it not have been better for the Judiciary Committee and full Senate to study and carefully debate the merits of this proposal?

While this rule may be good in the short run for physician organizations, the health care products industry and large organizations like HMO's and hospitals, can we say for certain that categorically taking away the incentives to patent medical procedures is in the interests of the American public?

One allegation that has been stressed repeatedly by the authors of this amendment is that "pure" process patents cost very little to develop, and thus, patent protections for such processes should not lead to substantial royalties. What this somewhat simplistic argument fails to consider are cases in which there has been substantial R&D for a process, at a cost to the inventor. For now, under the language we will approve today, any incentive for inventors to patent those discoveries will be removed, and very possibly, the incentive for research and development as well. Medical research, and medical progress, can only suffer.

Over the course of the last few days, when it became clear that the negotiators for the omnibus bill might include this medical process patent provision in the final compromise, I sent three dear colleague letters in opposition to the provision. I regret that my colleagues were either unaware, or unpersuaded by, my arguments.

Mr. President, I ask unanimous consent that those letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD; as follows:

SEPTEMBER 26, 1996.

DEAR COLLEAGUE: H.L. Mencken once said, "There is always an easy solution to every human problem—neat, plausible, and wrong." I am afraid that this is the case with the Ganske/Frist amendment on medical procedure patents.

As Chairman of the Committee with substantive jurisdiction over the patent code, I urge your opposition to inclusion in the omnibus appropriations bill of the Ganske/Frist amendment, a provision that would effectively preclude the enforcement of medical process patents. With all due respect to my colleagues Congressman Ganske and Senator Frist, this language, either as passed by the House or in a more recent form, raises significant procedural and substantive questions, and should not be adopted without a full review by this body.

PROCEDURAL CONCERNS

Authorizing Language on Appropriations Bill: The Ganske/Frist amendment circumvents the normal Committee process by misusing the appropriations mechanism to amend a highly technical and very complex area of substantive patent law. This is precisely the type of non-germane amendment that Senators Hatfield and Byrd and others have admonished the Senate not to incorporate within this type of omnibus appropriations vehicle.

Not Reviewed by Judiciary Committee: The language of the latest Ganske/Frist compromise has never been the subject of a hearing or mark-up by any Committee of Congress. The Senate Judiciary Committee and the full Senate should have the opportunity to carefully consider and meaningfully debate this issue before final action is taken on this provision.

The original Ganske proposal, which would have excluded surgical and medical procedures from patentability, was the subject of a 1995 hearing of the House Judiciary Committee, Subcommittee on Courts and Intellectual Property. The bill, H.R. 1127, was opposed by the Biotechnology industry Organization, the Section of Intellectual Property Law of the American Bar Association, and the American Intellectual Property Law Association.

An amendment to bar the Patent and Trademark Office from spending its funds to issue such patents was adopted on the Commerce-State-Justice appropriations bill in the House on July 24, 1996. Joining those opposed to this amendment were the Intellectual Property Owners, the Pharmaceutical Research and Manufacturers of America, and Chairman Moorhead and Ranking Member Schroeder of the Subcommittee that conducted the earlier hearing.

SUBSTANTIVE CONCERNS

Administration Opposition: The Commissioner of Patents and Trademarks, Bruce Lehman, testified before the Senate Judiciary Committee on September 18, 1996, and stated that the Administration opposes both the Ganske Amendment and the latest Ganske/Frist compromise. Commissioner Lehman noted that the area of medical technology is particularly patent-dependent and expressed his concern that we not overreact in a fashion that jeopardizes "the goose that lays the golden egg".

Impact on Medical Research: The supporters of the Ganske/FRIST compromise can provide no assurance that enactment of this legislation would not impede timely future development of critical "pure" medical procedures. As Commissioner Lehman has testified, patents are often useful in attracting investment capital. It is impossible to state categorically today, as the Ganske/Frist legislation seems to presume, that tomorrow's advances in "pure" medical procedures will take place as expeditiously as possible absent patent protection. As Commissioner Lehman told the Judiciary Committee: "It would be really quite tragic if we were to find that a very large loophole were to be opened in the patent system that would cause investment in some of the most important technology—not just from an economic point of view but from a life-saving point of view, to cause that investment to dry up."

Biomedical researchers, physicians, and other health care professionals are to be saluted for their rich tradition of public disclosure and free exchange of ideas. That this long-standing iterative educational process often acts to preclude compliance with the strict legal requirements of the patent system does necessarily lead to the conclusion that all medical processes should not be patentable. In no other field would one suggest that the incentives of the patent system be eliminated in the hope that technical progress would proceed unabated.

Patent Protection Available to All: For these reasons, the Administration is joined in opposing this legislation by the Section of Intellectual Property Law of the American Bar Association which believes the proposals:

" . . . violate a fundamental principle of our law under which patent protection is available without discrimination as to field of invention or technology. The Frist/Coalition approach is doubly discriminatory in that it would achieve this result by discriminatory treatment based on the identity or profession of the infringer. . . The Section of Intellectual Property Law believes that it would be both unfair and counterproductive to single out one area of creativity—the creation of new and improved medical procedures—and deny rewards to those creators while providing them to all others."

The Case for Changing the Law Has Not Been Made: Section 101 of the patent code—which broadly defines the subject matter eligible

for patenting—has been essentially unchanged for over 200 years. The Ganske/Frist initiative reverses this long history of statutory and case law and, without adequate justification, precludes the patenting of an extremely important field of endeavor—medical processes. The patent code should not be changed on the basis of anecdotal evidence.

It is particularly perplexing that in the case that precipitated the current controversy, the Pallin suture-less cataract operation, the system worked, and the patent has not been enforced by the courts.

Moreover, to the extent that the Ganske/Frist compromise is designed to reduce litigation costs, it is difficult to see how it accomplishes this goal. Where a medical process involves any type of instrument, a motion for summary judgment could likely involve contested issues of fact that would subject physicians to the expenses of litigation, even where they would ultimately not be subject to remedies.

A Right Without a Remedy: The latest Ganske/Frist compromise provides the right to patent medical procedure without a remedy against the most likely class of infringers (medical practitioners). This violates one of the most fundamental benefits of the United States patent system—the right to exclusive use. Severely limiting the remedies available under section 287 of the patent code is tantamount to amending what is patentable under the 200 year old language of section 101. A patent without a meaningful remedy against infringement is like no patent at all.

Individual Inventors vs. Multi-Million Dollar Corporations: By extending protection to organizations that employ physicians such as health maintenance organizations, the Ganske/Frist legislation raises equity questions concerning the proper balancing of rights of individual inventors versus large corporations. We must think carefully before we take away the rights of individual inventors by not allowing enforcement against patent infringement by multi-million dollar corporations.

Trade Implications: The House-passed Ganske amendment to limit the authority to expend funds to issue medical procedure patents undercuts the hard fought gains of the GATT Treaty TRIPS provisions (Trade-Related Intellectual Property Rights). The House language invites, however unintentionally, our trading partners to adopt intellectual property protections that comply with TRIPS but, at the same time, functionally nullifies these apparent gains by simply not appropriating administrative funds. If this technique were used by our foreign trading partners not to enforce American-owned patents on, for example, pharmaceuticals or automobile parts, Congress and the public would demand action.

Not Reviewed by Finance Committee: This latest Ganske/Frist compromise raises novel, complicated, and sensitive issues of far-ranging precedential significance relating to Articles 27, 28, and 30 of TRIPS. These issues need to be thoroughly examined and merit careful consideration and debate by the Judiciary Committee, the Finance Committee, and the full Senate. There is no consensus on these issues. We have not had an opportunity to hear from the United States Trade Representative or the Secretary of Commerce on these matters. For example, the American Intellectual Property Law Association has noted that this amendment:

". . . would be very deleterious to the patent law and raises serious questions regarding the compliance by the United States with its obligations under TRIPS. This amendment . . . should be rejected. The proponents have failed to demonstrate a need for this amendment. The amendment would proclaim an open season for exceptions to patent protection to address other alleged problems. Moreover, it would clearly be inimical to the interests of American industry for the United States to take the lead in weakening the patent protection required under Articles 28 and 30 of the TRIPS."

OPPOSE THE GANSKE/FRIST AMENDMENT

Oppose the Ganske/Frist Amendment: In sum, the laws that allow the patenting of the broadest possible range of subject matter coupled with the three basic legal requirements of novelty, utility, and nonobviousness have proven effective over the long run. Our current statutory framework has met the Constitutional charge "to promote science and useful arts" and has helped make the United States the world's leader in medical technology. We should not change these laws absent a demonstration of a compelling need, and we should not use the omnibus appropriations vehicle for such a controversial change in substantive patent law.

Sincerely,

ORRIN G. HATCH,
Chairman.

SEPTEMBER 27, 1996.

SUBSTANTIAL OPPOSITION VOICED TO GANSKE/FRIST AMENDMENT

DEAR COLLEAGUE: In view of the upcoming debate on the omnibus appropriations bill, I thought you would want to be aware of several compelling arguments raised in opposition to proposed language barring medical procedure patents or their enforcement. I continue to oppose this proposal on both procedural and substantive grounds. Here's what some top intellectual property authorities are saying:

The Clinton Administration: The Clinton Administration opposes the Ganske/Frist amendment both as it passed the House and in its more recent version. In a July 17, 1996 letter to the House Appropriations Subcommittee, the Commerce Department stated,

"We continue to oppose enactment of H.R. 1127 (the Ganske bill) and any amendment that contains the substance of it. We still believe that it is premature to adopt such drastic steps when we have the opportunity to adopt administrative measures to mitigate the problem."

Moreover, in September 18, 1996 testimony before the Senate Judiciary Committee, PTO Commissioner Bruce Lehman expressed opposition to the latest compromise and the unprecedented loophole it would establish. PTO Commissioner Lehman said,

"I, personally, the Office, and the Administration are against the Ganske amendment, and we would be against a variation of that, too, and let me tell you why."

Commissioner Lehman's major points in opposition were:

This could be a case of overreaction to a specific circumstance. Even though that situation may be controversial, it is important not to kill the "goose that lays the golden egg," that is, the incentive for medical research;

There is no requirement that patent applications be filed. Historically, surgical procedures are not patented. When they are, it is usually because it is required as part of a business plan to attract the necessary capital for research and development;

We would not have the wonderful therapies we have right now in this country—we wouldn't have the medical and pharmaceutical industry that leads the world, that provides a level of health care second to none, if it weren't for the patent system. It is one of the most patent-dependent industries that there is, and so we have to be extremely careful in tampering with that system.

PTO Commissioner Lehman concluded, "It would be really quite tragic if we were to find that a very large loophole were to be opened in the patent system that would cause investment in some of the most important technology—not from an economic point of view, but from a life-saving point of view—to cause that investment to dry up."

ABA Section of Intellectual Property Law: In the attached letter, the ABA's Intellectual Property Section strongly opposes the original Ganske and Frist bills (H.R. 1127/S. 1134), as well as the Ganske amendment adopted in the House as part of the Commerce Department appropriations bill and a more recent variation advanced by the Medical Procedures Patents Coalition. The ABA Intellectual Property Law Section says:

"All the proposals violate a fundamental principle of our law under which patent protection is available without discrimination as to field of invention of technology. The Frist/Coalition approach is doubly discriminatory in that it would achieve this result by discriminatory treatment based on the identity or profession of the infringer."

The Intellectual Property Law Section raises several concerns about the latest proposal, concerns which have not been examined by any committee of Congress. These concerns include: the negative impact on the America's world leadership in scientific and technological development by singling out one area of creativity and denying rewards to those creators while providing them to all others; the international impact of making this change to accommodate narrow domestic interests; and the unworkability and ineffectiveness of the proposals.

The American Intellectual Property Law Association: In a September 16, 1996, letter, the American Intellectual Property Law Association said,

"This amendment, which would limit the remedies available against physicians and health care organizations for infringing medical procedure patents, should be rejected. The proponents have failed to demonstrate a need for this amendment. The amendment would proclaim an open season for exceptions to patent protection to address other alleged problems.

"Moreover, it would clearly be inimical to the interests of American industry for the United States to take the lead in weakening the patent protection required under Articles 28 and 30 of TRIPs."

The Intellectual Property Owners: The Intellectual Property Owners' Association represents companies and inventors who own patents, copyrights and trademarks in all fields of endeavor. In a letter expressing strong opposition to the Ganske amendment, the IPO has said,

"The amendment will harm members of our association who are investing in medical research. Moreover, the amendment amounts to a full employment law for attorneys. Attorneys and the U.S. Patent and Trademark Office will spend huge amounts of money litigating the scope of the amendment, adding to the already too high cost of obtaining and enforcing patents."

Further, in a separate letter commenting on a more recent version of the amendment, the IPO says,

"The proposal made by the American Medical Association and pharmaceutical and biotechnology trade associations to limit remedies for patent infringement by physicians and medical organizations is a dangerous precedent. It could undercut the efforts of the United States to strengthen patent rights in countries throughout the world in all fields of technology. We hope Congress will not rush to judgement with legislation that will cause expensive litigation or diminish the strong incentives that the United States has traditionally provided for medical research."

Accordingly, I urge you to join these leaders in the field of intellectual property in opposing inclusion of this unstudied proposal in the end-of-the-year appropriations bill.

Sincerely,

ORRIN G. HATCH,
Chairman.

AMERICAN BAR ASSOCIATION,
Chicago, IL, September 11, 1996.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express the opposition of the Section of Intellectual Property Law of the American Bar Association to S. 1134, the "Medical Procedures Innovation and Affordability Act", and to a similar proposal recently advanced by the Medical Procedures Coalition (hereafter referred to as "the Coalition proposal"). These views have not been considered or approved by the House of Delegates or Board of Governors of the American Bar Association.

S. 1134 and the Coalition proposal are two of four proposals currently pending in Congress, or which Congress has been asked to consider, to curtail patent rights for medical and surgical procedures. H.R. 1127, the "Medical Procedures Innovation and Affordability Act," introduced in the House on March 3, 1995 by Mr. Ganske, would prohibit patenting of inventions relating to certain medical and surgical procedures. On July 24 of this year, an amendment by Mr. Ganske relating to these issues was adopted in the House during consideration of H.R. 3814, the FY97 Commerce, Justice, State Appropriations Act. The Ganske amendment would achieve a ban on patenting of medical procedures similar to that called for in H.R. 1127 by a restriction on use of appropriated funds. H.R. 3814, including the Ganske amendment, is pending in the Senate.

The Ganske bill and the Ganske amendment attempt to insulate medical practitioners from liability for infringement of patents on medical procedures by denying patent protection to such procedures. Senator Frist's bill, S. 1134, and the Coalition proposal attempt to achieve the same result by denying legal remedies to owners of patents on these procedures when their patents are infringed by medical practitioners. We oppose both approaches and we oppose all four proposals. All the proposals violate a fundamental principle of our law under which patent protection is available without discrimination as to field of invention or technology. The Frist/Coalition approach is doubly discriminatory in that it would achieve this result by discriminatory treatment based on the identity or profession of the infringer.

The Section of Intellectual Property Law believes that it would be both unfair and counterproductive to single out one area of creativity—the creation of new and improved medical proceures—and deny rewards to those creators while providing them to all others. Our world leadership in scientific and technological development, a leadership which most particularly includes leadership in development of improved medical technology and procedures, has been achieved in large part because of, not in spite of, the controls and rewards which our system gives to our innovators.

For decades the United States has urged all nations to adopt laws protecting intellectual property fully and without discrimination. These efforts have been largely successful, but are by no means over. In the ongoing talks regarding a Diplomatic Conference on Certain Copyright and Neighboring Rights Questions, critical issues regarding legal protection for emerging new areas of innovations are being addressed. The United States would be sending a dangerous message to these efforts by carving out a glaring exception to our system of uniform protection in order to accommodate narrow domestic interests which can be addressed, and are already being addressed, with far less radical measures.

S. 1134 and the Coalition proposal are apparently designed to address earlier criticism of H.R. 1127. However, they attempt to fix a fundamentally unsound and conceptually flawed proposal by narrowing its exclusionary provisions so that patent protection is not denied in areas where that denial presents policy or political impediments to enactment of the legislation. We believe that our legal framework for the promotion and protection of intellectual creativity, the finest and most successful that the world has known, would not be strengthened by such short-sighted statutory gerrymandering.

We also believe that the proposals based on restrictions on remedies are unworkable and would not achieve the intended results. As we understand it, the objective of these proposals is to provide a legal framework in which to prevent successful lawsuits against medical practitioners for the practice of certain medical procedures. Ideally this would be achieved by such suits never being filed. However, since plaintiffs control the filing of lawsuits, a more realistic objective seems to be to provide for early identification and expedited procedures for the dismissal or other disposition of such cases. If such a "gatekeeper" system is not functioning, the legislation would be of little utility. For example, if lengthy and costly discovery proceedings are required or permitted before a case can be weeded out, the legislation will provide little if any relief of the nature sought by medical practitioners and their supporters. In fact, such legislation might very well increase litigation and litigation costs, through a combination of failure to reduce existing litigation and additional litigation over the meaning and effort of the legislation itself.

We believe these are precisely the results which would flow from the enactment of these proposals. In this regard, we note that the Coalition proposal provides a number of exceptions to the general rule that legal remedies are not available for infringement arising out of the performance of medical or surgical procedures by medical practitioners, as well as an even broader, over-arching exclusion of coverage of certain activities relating to commercial development and distribution and the provision of pharmacy or clinical laboratory services.

One key exception in the proposal, relating to patented use of a composition of matter, provides that the exception does not apply to such use unless the use "directly contribute(s) to achievement of the objective of the claimed method." This is clearly an issue which is fact bound to a high degree, and not one that is likely to be resolved at the pleadings or motion stages of litigation. Proponents of the Coalition proposal suggest that legislative history can be treated to establish legislative intent that these fact intensive questions can be decided by motion to dismiss or summary judgment. However, legislative history accompanying amendments to title 35 are unlikely to be found to be controlling legislative intent regarding application of Rules of Civil Procedure which are unchanged by the legislation, particularly when the intent expressed is in conflict with the express language of the Rules themselves. (The Coalition suggests that a movant for summary judgment under Rule 56 may prevail by showing by a "preponderance of evidence" that certain essential facts exist. However, Rule 56 states that such a motion may be rendered only if "there is no genuine issue as to any material fact").

We strongly urge you to oppose all four versions of this legislative proposal.

Sincerely,

JOHN R. KIRK, Jr.
Chair.

SEPTEMBER 28, 1996.

DEAR COLLEAGUE: I am writing to urge you to reject the Frist/Ganske proposal that would effectively prohibit medical procedure patents.

If you were in a car crash and ended up in the emergency room would you care whether your life was saved with a drug, or with a medical device, or with a surgical procedure? No, all you would care about is that the your life was saved through the most appropriate, up-to-date medical technology.

Why, then, should we adopt the untested Frist/Ganske amendment and suddenly reverse 200 years of patent law by rendering patents on life-saving medical procedures meaningless? Do you really want to take the chance that your doctor or the emergency room will be stuck with yesterday's technology because we hastily amended the patent law today?

My good friend, Senator Frist, recently posed the question: "Should the Heimlich maneuver be patentable? Imagine someone collecting a dollar every time someone used this or any other 'pure' medical procedure!" The fact is that many people would pay a dollar rather than take the risk of choking to death before they could get to the hospital. If you had a choice between the Heimlich Maneuver and an emergency tracheotomy, which would you choose? And, given the costs of emergency room visits, I am sure that the insurance company would opt for the simple, cost-effective procedure.

But, of course, the Heimlich maneuver, like most medical procedures, is not patented. We owe a debt of gratitude to Dr. Heimlich and all the other pioneers in medicine and health care practitioners, including Senator Frist and Representative Ganske, who are primarily motivated not to make money, but to save lives. We should also salute the tradition in the medical sciences of sharing information and freely exchanging ideas concerning the latest advances in medicine.

There is often an iterative educational dialogue that takes place during the medical research process. These interactions can act to defeat patentability because the strict legal requirements of demonstrating novelty and nonobviousness can not be satisfied by incremental or publicly discussed scientific achievements.

For example, in his recent Roll Call article, Representative Ganske criticized a patent issued in the area of breast reconstructive surgery. If, as Dr. Ganske states, "[this particular type of] breast reconstructive surgery had been in widespread use for at least 15 years. . .", then this patent should not have been issued in the first place and will not withstand court challenge.

The case that has fueled the current debate involved a patent issued to Dr. Samuel Pallin for a "no-stitch" cataract procedure. In a suit to enforce this patent against another surgeon, Dr. Jack Singer, a consent decree invalidating the patent was sanctioned by a court on grounds that the technique was already in use. In other words, the result feared by Senator Frist and Representative Ganske did not occur; the procedure failed the test for patent protection.

Senator Frist contends that "health care costs would explode if doctors charged licensing fees for every new surgical or medical technique. . ." And, on the issue of finding ways to reduce health care costs, I appreciate and generally agree with my colleague's suggestions. But the facts of the *Pallin* case reveal that—even with the requested $4 per operation fee—appreciable cost savings are achieved when it is taken into account that each stitch not needed saves an estimated $17.

Senator Frist takes the position that the basic rationale behind the American patent system—the encouragement of innovation—"does not apply to innovations in pure medical and surgical procedures because such innovations will occur without the benefit of patent law."

Many leading experts in intellectual property law take exception with this viewpoint. For example, the Commissioner of Patents and Trademarks, Bruce Lehman, expressed the Clinton Administration's opposition to the Frist/Ganske amendment by cautioning Congress not to overreact to the controversial *Pallin* case. As Commissioner Lehman recently explained his reasoning to the Senate Judiciary Committee:

"Historically, in the area of surgical procedures, people oftentimes don't file patent applications. When people file for patents, it is usually because they have to file a patent in order to get the financing to make that technology a reality * * *

"It would be really quite tragic if we were to find that a very large loophole were to be opened in the patent system that would cause investment in some of the most important technology—not from an economic point of view but from a life-saving point of view, to cause that investment to dry up."

In contrast to the view that "these innovations would occur anyway," consider the assessment made by William D. Noonan, M.D., J.D., concerning the importance of patent protection for attracting private investment into the research that resulted in the surrogate embyro transfer (SET) procedure:

"The research that developed the SET procedure was financed with $500,000 of venture capital because the National Institutes of Health (NIH) would not fund the research. It seems unlikely that the inventor of the SET process would have gotten this private funding if the process was not patentable subject matter."[1]

Moreover, Dr. Noonan points out that, "it is a questionable generalization to condemn all the therapeutic procedure patents merely because * * * [of the *Pallin* 'no stitch' suture patent]" and that "there are instances in which medical advances may not be made if patent protection for a therapeutic method is not available."

At this point in time, there are simply too many unanswered questions about the Frist/Ganske amendment to justify sweeping this provision into the "end-of-the-session" omnibus appropriations legislation. Among these questions are:

Since there is no purported "emergency" need for the legislation (e.g., the *Pallin* cataract patent has not been enforced), and there has never been a hearing or mark-up in either the House or Senate on the language of the Frist/Ganske amendment, would it not be prudent for the respective Judiciary Committees' of each chamber to consider this legislation?

Given the precedent setting nature of this legislation for U.S. trade policy, particularly with respect to the proper interpretation and application of Articles 27, 28, and 30 of the GATT Treaty TRIPs provisions, would it not be preferable for the Senate Finance Committee and House Ways and Means Committee to examine this issue in close consultation with the United States Trade Representative?

In a September 27, 1996 letter, the Office of the United States Trade Representative stated, "USTR has serious concerns about the consistency of the provision with the TRIPs Agreement. Moreover, we believe that the proposal sets a damaging precedent that other TRIPs Members might apply to other technologies." Why should we act in such haste in a way that may run afoul of the TRIPs agreement, and provide a roadmap for our trading partners who may use this example to justify the creation of broad exceptions for other technologies?

How can we be certain that costly and risky research will continue on tomorrow's seminal "pure" medical procedures in the absence of patent protection?

Why should the incentives associated with the patent system for research into medical procedures be any less or different than the incentives for research into drugs and medical devices?

As overall federal budgetary pressures constrain the growth of NIH funding, is this the time to decrease private sector incentives to invest in certain types of biomedical research?

What policy objectives are advanced by the Frist/Ganske amendment that prefers the rights of large corporate entities, such as HMOs, over the interests of individual inventors?

What are the implications of the provisions of the Frist/Ganske amendment that nominally allow medical procedure patents but then do not permit these patents to be enforced against the most likely infringers?

Until we know more about the answers to these and other questions, and we are able to get the answers on the record for all senators to consider, I urge my colleagues to oppose inclusion of the Frist/Ganske amendment on medical procedure patents in the omnibus appropriations bill.

Sincerely,

ORRIN G. HATCH,
Chairman.

SEPTEMBER 18, 1996.

Hon. JUDD GREGG,
Chairman, Subcommittee on Commerce, Justice, State and Judiciary, U.S. Senate, Washington, DC.

DEAR JUDD: I have significant concern about an amendment which was adopted during House consideration of H.R. 3418, the House Commerce, Justice, State appropriations bill. That amendment, authored by Rep. Greg Ganske, would limit the use of funds to approve patents for surgical or medical procedures or diagnoses. I want to express my appreciation to you and your staff for your efforts to defer consideration of this contentious issue pending review by the Judiciary Committee.

I understand the concerns which motivate the amendment and I am sympathetic to the issues which have been raised. However, I believe myriad questions can be raised about this proposal and its impact. The effect of this amendment would be to bar process patents for a certain industry, an exception never before made to our 200-year old patent law. A more recent version of the bill would allow the patents, but bar enforcement rendering the patent but an empty shell. Both of these would create tremendous precedents in patent law, precedents which are not supported by the intellectual property community. At a Judiciary Committee hearing today, Patent Commissioner Bruce Lehman also indicated that the Administration could not support either the Ganske provision or the recent variation.

In sum, I think that this issue needs to be more fully considered by the Congress, and in particular, by the Senate Judiciary Committee. I believe that passage of the Ganske provision, or the recent Frist modification, without adequate consideration of its long-term implications for intellectual property rights would be extremely unwise.

Let me hasten to add that I understand your special interest in this issue, and I am sympathetic to the need to examine further the impact of medical process patents. My study of the Singer case, in which the patent was overturned, leads me to believe that the Patent and Trademark Office's procedures could be improved in the area of medical patents. This is something that I will be pursuing, and I welcome your input into this process.

Sincerely,

ORRIN G. HATCH,
Chairman.

Mr. HATCH. Mr. President, in closing, I must reiterate my profound disappointment and my objections to including this medical process patents provision in the omnibus appropriations bill. This is a serious matter and a serious precedent. We will have to look very carefully at its implications in the months to come.

ALTERNATIVE MEANS OF DISPUTE RESOLUTION ACT OF 1996

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4194 which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4194) to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes.

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

[1] William D. Noonan, M.D., J.D., "Patenting of Medical and Surgical Procedures," Journal of the Patent and Trademark Office Society, August, 1995, at 656–57.

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

AMENDMENT NO. 5421

(Purpose: To make amendment and to establish concurrent jurisdiction for purposes of hearing bid protests between the district courts of the United States and the United States Court of Federal claims and sunsetting bid protest jurisdiction of the district courts of the United States and other purposes)

Mr. GRASSLEY. Senator COHEN has an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. COHEN, proposes an amendment numbered 5421.

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

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

The amendment is as follows:

At the end of the bill insert the following:

SEC. 12. JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS AND THE DISTRICT COURTS OF THE UNITED STATES: BID PROTESTS.

(a) BID PROTESTS.—Section 1491 of Title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) in subsection (a) by striking out paragraph (3); and

(3) by inserting after subsection (a), the following new subsection:

"(b) (1) Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract or any alleged violation of statute or regulation in connection with a procurement or a proposed procurement. Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

"(2) To afford relief in such an action, the courts may award any relief that the court considers proper, including declaratory and injunctive relief except that any monetary relief shall be limited to bid preparation and proposal costs.

"(3) In exercising jurisdiction under this subsection, the courts shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

"(4) In any action under this subsection, the courts shall review the agency's decision pursuant to the standards set forth in section 706 of title 5."

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on December 31, 1996 and shall apply to all actions filed on or after that date.

(c) STUDY.—No earlier than 2 years after the effective date of this section, the United States General Accounting Office shall undertake a study regarding the concurrent jurisdiction of the district courts of the United States and the Court of Federal Claims over bid protests to determine whether concurrent jurisdiction is necessary. Such a study shall be completed no later than December 31, 1999, and shall specifically consider the effect of any proposed change on the ability of small businesses to challenge violations of federal procurement law.

(d) SUNSET.—The jurisdiction of the district courts of the United States over the actions described in section 1491(b)(1) of title 28, United States Code, (as amended by subsection (a) of this section) shall terminate on January 1, 2001 unless extended by Congress. The savings provisions in subsection (e) shall apply if the bid protest jurisdiction of the district courts of the United States terminates under this subsection.

(e) SAVINGS PROVISIONS.—

(1) ORDERS.—A termination under subsection (d) shall not terminate the effectiveness of orders that have been issued by a court in connection with an action within the jurisdiction of that court on or before December 31, 2000. Such orders shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

(2) PROCEEDINGS AND APPLICATIONS.—(A) A termination under subsection (d) shall not affect the jurisdiction of a court of the United States to continue with any proceeding that is pending before the court on December 31, 2000.

(B) Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if such termination had not occurred. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

(C) Nothing in this paragraph prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that proceeding could have been discontinued or modified absent such termination.

"(f) NONEXCLUSIVITY OF GAO REMEDIES.—In the event that the bid protest jurisdiction of the district courts of the United States is terminated pursuant to subsection (d), then section 3556 of title 31, United States Code, shall be amended by striking "a court of the United States or" in the first sentence.

Mr. COHEN. Mr. President, the amendment I am offering this morning to H.R. 4194, a bill to reauthorize alternative means of dispute resolution in the Federal administrative process, is the result of a compromise reached last night with the other house.

The amendment deals with the issue of bid protest jurisdiction in the Federal district courts and the U.S. Court of Federal Claims. The amendment will expand the bid protest jurisdiction of the Court of Federal Claims. It should be noted, however, that this amendment in no way expands the jurisdiction of the Court of Federal Claims beyond bid protests or changes the standard of review in any other area of jurisdiction of the Court of Federal Claims.

Currently, the Court of Federal Claims only has jurisdiction over bid protests which are filed before a contract award is made. My amendment provides for both pre- and post-award jurisdiction. The Federal district courts also have jurisdiction over bid protests. Prior to a 1969 Federal court decision, however, the Federal district courts had no jurisdiction over Federal contract awards. A Federal district court, in Scanwell Lab., Inc. versus Shaffer, held that a contractor can challenge a Federal contract award in Federal district court under the Administrative Procedures Act.

It is my belief that having multiple judicial bodies review bid protests of Federal contracts has resulted in forum shopping as litigants search for the most favorable forum. Additionally, the resulting disparate bodies of law between the circuits has created a situation where there is no national uniformity in resolving these disputes. That is why I have included provisions in this amendment for studying the issue of concurrent jurisdiction and have provided for the repeal of the Federal district courts' Scanwell jurisdiction after the study is complete in 2001.

The chamber of commerce fully supports this language as do our colleagues in the other chamber.

I would like to express my deep gratitude for the willingness of my colleagues and their staffs in both houses to work with me and my staff to develop this compromise.

Mr. LEVIN. Mr. President, we all want a government that works better and costs less. In the rush of closing business in this Congress, I am pleased that the Senate has made time for legislation authored by myself and Senator CHUCK GRASSLEY to encourage faster, less costly ways to resolve disputes with the Federal Government. This bill, which has gone through several versions, is now before us as H.R. 4194, and has been approved by both sides of the aisle in the Senate and the House. I am hopeful that, by the end of the day, this legislation will be on its way to the President.

It's a fact of life that many people have disputes with the Federal Government. In the late 1980's, of the 220,000 civil cases filed in Federal court, more than 55,000 involved the Federal Government in one way or another. Resolving these disputes costs taxpayers billions of dollars.

Resolving them before they become courtroom dramas is one way to make a dent in this billion-dollar drain on taxpayer funds. Mediation, arbitration, mini trials and other methods offer cheaper, faster alternatives to courtroom battles.

That's why, 6 years ago, Senator GRASSLEY and I cosponsored the Administrative Dispute Resolution Act of 1990. It is why we have teamed up again this year to reauthorize and fine-tune that Act and make it a permanent part of U.S. law. Perhaps the most important improvement we would make is to expand the alternative dispute resolution or ADR tools available to Federal agencies by making binding arbitration

a more attractive option. The bill takes two steps to do so. First, it would eliminate a one-way escape clause that allowed Federal agencies, but not private parties, unilaterally to vacate a binding arbitration award that disadvantaged the government. In the 5 years this escape clause has been on the books, no one has ever agreed to an arbitration proceeding with the Government on this basis. Eliminating this unilateral escape clause is expected to encourage more private parties to agree to use binding arbitration as a cost-saving alternative to civil litigation. Second, the bill would put into place several safeguards to protect the United States from improper or unwise use of this ADR technique, including requiring agencies to think through, ahead of time and in writing, when binding arbitration should be used; requiring every agreement to use binding arbitration to be in writing and to specify the maximum dollar award that an arbitrator may award against the United States; and ensuring that agency officials cannot even offer to use binding arbitration unless the official already has authority to settle the matter.

Also, to ensure that binding arbitration remains a voluntary procedure, the bill maintains the provision in the ADR law, 5 U.S.C. 575(a)(3), which prohibits Federal agencies from requiring individuals to agree to use binding arbitration to settle disputes as a condition of entering into a contract or obtaining a benefit. Both the bill sponsors and the authorizing committees intend this provision to include prohibiting an agency from requiring a party to submit to binding arbitration as a condition of Federal employment or to relinquish rights under other laws such as the Civil Rights Act. It is not the intent of the bill to coerce anyone into using binding arbitration.

The bill makes a number of other refinements in the ADR law as well, including clarifying the confidentiality of ADR proceedings; clarifying agency authority to hire mediators and other ADR neutrals on an expedited basis; allowing agencies to accept donated services from State, local and tribal governments to support an ADR proceeding; adding an explicit authorization for appropriations; removing a ban on Federal employees' electing to use ADR methods to resolve certain personnel disputes; and eliminating special paperwork burdens on contractors willing to use ADR to resolve small claims against the Government under the Contract Disputes Act. The bill would also reassign the task of encouraging and facilitating agency use of ADR methods from the Administrative Conference of the United States, which has been terminated due to a lack of appropriations, to an agency or interagency committee to be designated by the President.

In addition to reauthorizing the ADR law, the bill also includes the Levin-Grassley amendment to reauthorize the Negotiated Rulemaking Act of 1990. The Negotiated Rulemaking Act is another reform effort that seeks to interject common sense and cost savings into the way the Federal Government does business. In essence, it allows a Federal agency to form an advisory committee with its regulated community, public interest groups and other interested parties to draft regulations that everyone can support and live by.

As its name implies, the point of the law is to get parties to negotiate with each other and the Federal Government to devise sensible, cost effective rules. No one is required to participate in a negotiation, and no one gives up their rights by agreeing to negotiate. It is a voluntary, rather than a mandatory, process.

Agencies and others have discovered that, in many rulemaking situations, negotiation beats confrontation in terms of cost, time, aggravation, and the ability to develop regulations that parties with very different perspectives can accept. One industry participant in a negotiated rulemaking involving the Clean Air Act put it this way: "It's a better situation when people who are adversaries can sit down at the table and talk about it rather than throwing bricks at each other in courtrooms and the press." An environmental journal reached the same conclusion, summing up a negotiated rulemaking involving the Grand Canyon with the headline, "See You Later, Litigator." The Washington Post has called negotiated rulemaking "plainly a good idea," while the New York Times has called it "an immensely valuable procedure that ought to be used far more often."

Like ADR, the bill would make the Negotiated Rulemaking Act a permanent fixture in Federal law, while fine-tuning some provisions. The improvements include facilitating agency hiring of neutrals, called convenors and facilitators, on an expedited basis; providing an explicit authorization for appropriations; clarifying the authority of agencies to accept gifts to support negotiated rulemaking proceedings; and reassigning the responsibility for facilitating and encouraging agency use of negotiated rulemaking from the Administrative Conference of the United States, which has been terminated, to an agency or interagency committee to be designated by the President.

If enacted during this Congress, the bill would avoid a lapse in the negotiated rulemaking law which is otherwise scheduled to expire in November. That is why it is so important to pass this legislation before Congress closes its doors for the year.

Finally, the bill would address the unrelated issue of judicial jurisdiction over procurement protests. At present, the Court of Federal Claims reviews some procurement protests, while the Federal district courts have responsibility for others. This overlapping authority has led to forum shopping and has resulted in unnecessary and wasteful litigation over jurisdictional issues. For this reason, the January 1993 report of the Acquisition Law Advisory Panel (the so-called section 800 Panel) recommended that:

> There should be only one judicial system for consideration of bid protests and that forum should have jurisdiction to consider all protests which can now be considered by the district courts and by the Court of Federal Claims. * * * The Court of Federal Claims should be the single judicial forum with jurisdiction to consider all protests that can presently be considered by any district court or by the Court of Federal Claims.

The original Senate bill contained a provision that would have implemented this recommendation and consolidated Federal court jurisdiction for procurement protests in the Court of Federal Claims.

The revised bill we are taking up today contains a compromise provision that would consolidate the jurisdiction of the Court of Federal Claims and the district courts. For 4 years, the consolidated jurisdiction would be shared by the Court of Federal Claims and the district courts. Each court system would exercise jurisdiction over the full range of bid protest cases previously subject to review in either system. After 4 years, the jurisdiction of the district courts would terminate, and the Court of Federal Claims would exercise exclusive judicial jurisdiction over procurement protests. These provisions addressing Federal court jurisdiction over procurement protests would not affect in any way the authority of the Comptroller General to review procurement protests pursuant to chapter 35 of title 31, U.S. Code, and they would not affect the jurisdiction or standards applied by either the district courts or the Court of Federal Claims in any area of the law other than the procurement protests to which they are addressed.

Mr. President, I would like to thank Senator GRASSLEY, and in particular his staffer, Kolan Davis, for the hard work and leadership he has shown to renew and strengthen the ADR and negotiated rulemaking laws. I would also like to thank Senator GLENN, Senator COHEN, and Senator STEVENS, from the Governmental Affairs Committee for their continuing support. And this bill would not have had a chance without the hard work, persistence, and creative effort of three House Members and their outstanding staffs, and I would like to thank Congressmen JACK REED, George Gekas, and HENRY HYDE for getting this legislation to the floor despite a crowded calendar. This bill shows that bipartisanship is alive and functioning in this Congress.

Alternative dispute resolution methods and negotiated rulemaking provide new and better ways to conduct government business. They cost less, they're quicker, they're less adversarial, they develop sensible solutions to problems, and they free up courts for other business. They are two success stories in creating a government that works better and costs less.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be deemed read for the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The amendment (No. 5421) was agreed to.

The bill (H.R. 4194), as amended, read the third time, and passed.

OMNIBUS CONSOLIDATED APPROPRIATIONS, 1997

The Senate continued with the consideration of the bill.

Mr. GRASSLEY. Mr. President, I want to speak on the bill that is before us and just on a very small portion of it, the immigration bill. Obviously, the immigration bill is not just a small portion of the bill that is before us. It is perhaps one of the most important aspects of the bill before us. But what I meant was, I do not want to speak to the appropriations part of the bill.

I want to voice my strong support for the illegal immigration bill. This has been included, as everyone knows, as part of the continuing resolution. Senator SIMPSON, chairman of the Immigration Subcommittee, has worked diligently to bring this bill forward.

I am very pleased to have worked with him in creating solutions to the immigration problems that our country is facing today and, also, to take time to compliment Senator SIMPSON for the hard work that he has given for the people of his State of Wyoming to the United States as a Member of the U.S. Senate. He is now retiring. Those of us who have served with him on the Judiciary Committee, and a considerable amount of time together with him on the Immigration Subcommittee, are surely going to miss his leadership in this area.

This bill that is before us even under these extraordinary circumstances of its being part of the omnibus bill, even under those circumstances, should not detract from the hard work that has gone on in this Congress on this legislation that Senator SIMPSON has put together. He has produced a very strong bipartisan bill that will help us make a huge impact on the problems of illegal immigration.

In the last 2 years, Senator SIMPSON has made a great effort to deal with illegal immigration. We have done it by providing over $1 billion in new funding. But we all know that comprehensive legislation, like the bill before us, is necessary before we are ever going to be successful, or whether or not even that additional billion dollars in the war on illegal immigrants is going to be successfully spent.

Provisions of the bill provide for more effective deportation measures, increased border and investigative staffing, and stricter employment and welfare standards. It is exactly measures such as these that are necessary to combat the growing problem of illegal immigration.

Illegal immigration is an issue that has been in the forefront of public debate for some time right now. It is a growing problem that affects even the smallest towns in the Midwest.

The problem became graphic to me in January 1995 when an Iowa college student named Justin Younie was murdered by an illegal alien who had been removed from the State of Iowa once before because of his illegal status. Unfortunately, this particular illegal alien came back to the United States and to my State of Iowa without any problems. That is the case with so many illegal aliens returning, only this time, this person, this illegal alien, ended up committing murder. This person has since been convicted of this horrible crime. That does not bring back the life of Mr. Younie. But it does set the stage for a very important provision that I have in this bill allowing local law enforcement people to be involved in the arrest of an illegal alien if the only thing they have done wrong is being in this country illegally. I know it is not understandable to people who for the last 20 years, there has been a regulation saying that local law enforcement people cannot arrest an illegal alien just because they are here illegally. But that is the situation.

We have another example beyond this murder of the reach of illegal immigration, and it was featured in the U.S. News & World Report of September 13, 1996, and on the cover story. It addressed illegal immigration and its effects on the small town of Storm Lake, IA. Specifically, the article focused on the meatpacking industry, which, since its opening in 1982, has experienced a large influx of illegal immigrants. The effects on the town of Storm Lake have been very significant. Along with a population increase has come increased crime rates, increased education expenditures, racial problems, and economic concerns causing great resentment within the community.

According to the article, the increase in illegal immigrants to the town can be attributed to the job opportunities offered by this meatpacking industry. Apparently, workers are recruited by immigrants already working at the plant. Once these workers are recruited, they illegally cross the border, obtain a false identity, and begin work. As workers are injured, or the plant is raided by the INS, new workers are hired to fill the empty positions. This process ensures a continuous demand for workers which has been so steady that it has reportedly spawned a sort of underground railroad from Mexico to the town of Storm Lake, IA.

It is because of situations like these—the meatpacking story in Storm Lake and the murder of Justin Younie in Iowa—that the illegal immigration conference report is being discussed here today. Provisions in this act address illegal immigration problems at every level, from Border Patrol to deportation. The act takes direct steps to reduce crime associated with illegal immigration and provides States with incentives to do the same.

Among the hundreds of provisions in this bill are a number of initiatives that I fought for as a member of the Judiciary Committee and, as well, as a conferee. For instance, this bill allows the Attorney General to enter into agreements with local law enforcement, permitting, as I said, for the first time since 1977 local authorities to apprehend, detain, and transport illegal aliens. This is an especially important step for the interior States, such as my State of Iowa, that are distant from the borders.

Just a few weeks ago local police had to release a truckload of illegal aliens because the INS wouldn't—or, as they might say, "couldn't"—respond just then. But they used the argument that there were less than 20 illegals in the group. So it was too small of a group for them to mess around with. Obviously, it is better from that judgment to wait until they find their way into a job and into the underground economy, get lost, and then spend thousands of dollars more to apprehend the very same people. But they were in the custody for a short period of time of these local law enforcement people.

So it is obvious that local law enforcement needs more tools like we are now providing to fight illegal immigrants.

In addition, because of my insistence, the conference included a guarantee that each State will have at least 10 agents. This will help States like Iowa that do not have any agents right now when illegal immigration is growing at a rapid pace.

The conference committee also included a provision of mine to exempt nonprofits and churches from the time-consuming and costly paperwork of verification and deeming. Unfortunately, the administration made the mistake of demanding the provision be changed in the last-minute negotiations last week on title V.

I might say at this point that my staff got a call about 1:30 Saturday morning to discuss some changes in this language. That is not a very good way to write a piece of legislation. And

we are going to pay the consequences for it on this because this resulting language is inferior to what I had agreed to in conference, and that was a bipartisan agreement.

At least on the face of it, nonprofits will be exempt from the new provision. But the question of when and how people can be served by nonprofits and any resulting paperwork requirement will unfortunately be left to regulations promulgated by the Attorney General. The former conference language that we had worked out provided protections from regulations. But the administration language does not. I think this will have to be remedied in legislation next year because we are going to have potential problems on this.

Nevertheless, I am satisfied with another provision concerning congressional participation.

This provision requires that when we proceed with the verification pilot projects for employers, Congress and the Federal Government will be a part of those projects. The only way that we are going to know if these really work or not is if we, in the Congress, are a part of them. That is a followup of my legislation, the first bill passed by a Republican Congress in 40 years, the first bill signed by President Clinton going way back to January of 1995, a bill where after 6 years we finally ended the exemption that Members of Congress as employers had from Federal law—civil rights, labor and safety legislation, among others, which we had exempted ourselves from that apply to the rest of the country.

That legislation has passed, so we are no longer exempt from those laws. There is no longer two sets of laws, one for Capitol Hill and one for the rest of the United States. There is one set of laws that applies equally.

When it comes to this verification pilot project for employers, it seems to me that we in the Federal Government ought to be participating in these projects and then we are going to know firsthand the redtape that small business or large business even has to go through to meet the requirements of our immigration law. Then in a few years when we go down the road to making a final decision whether or not this new verification procedure goes into place, we are going to do it not from the standpoint of just what our constituents are telling us, as so very important as that is, we are also going to know firsthand what is involved with this project and the impact it is going to have upon employers of America because we are employers in the sense that we, as Members of Congress, hire staff. And if the small business people ought to go through a certain process under this project, we ought to as well so we know firsthand what the situation is.

In conclusion, Mr. President, anyone who does not support this bill is just not serious about dealing with illegal immigration. Although many of the provisions of this bill could have been tougher, there has been a strong effort to achieve bipartisan support. I look forward to this bill becoming law, and I commend Senator SIMPSON for the incredible job he has done with this legislation.

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

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

The legislative clerk proceeded to call the roll.

Mr. BOND. 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. BOND. Mr. President, I ask unanimous consent to be permitted to proceed for 5 minutes as if in morning business.

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

"CHOOSING GOOD GOVERNMENT"

Mr. BOND. Mr. President, as we have launched into the high-pitched rhetoric and the harsh charges and countercharges of the fall political campaign season, I found it very interesting when I heard a sermon preached by Dr. Craig Barnes, the pastor of the National Presbyterian Church, on Sunday. It so happens that his sermon topic was "Choosing Good Government." I asked Dr. Barnes if he would mind if I shared this with my colleagues and with those who are interested, because I think Dr. Barnes laid down some very good principles for people of faith, people who contend they are religious believers, regardless of their particular sect or denomination or even their religion, to consider in choosing those who seek to represent us in November.

Dr. Barnes is not one to recommend one party or another or one candidate or another, nor have I heard him in his sermons attempting to influence the choices that those of us in the legislative bodies make when we deal with controversial issues, but I think he had a couple of very good points to consider and to apply based on our tenets, our beliefs and judgment as to how these standards should be applied. He gives us a framework for making the choices that are very important to all of us in this election year because, as he points out, we are subject to the rule of man by reason of the authorization from God for man to establish laws and rules over one another.

Dr. Barnes points out that we have to choose a system which is in conformity with God's will if we are to choose a government that is consistent with the principles that have been laid down by our God and by our faith.

The two main points that Dr. Barnes makes are, first, to choose God's leader is always to choose godly character. And he points out that we live in an era when character and integrity have sometimes gotten off the table for consideration. You try bringing up an issue like personal morality and they say that is nobody's business.

Dr. Barnes points out that as King David discovered,

> People who do not make good personal choices are compromised in their ability to make good public choices. Biblical leadership is never seen as a job. It is a calling. It is a way of life for which the leader is a symbol. People who choose to live by the Bible," or by the other directives that they have receive from that higher being in whom they have belief, "are given rather clear standards of ethical behavior. Some things are right. Some things are wrong. [It is] not wrong because it is ineffective or unpopular. But [it is wrong] because it isn't the right thing to do. To choose God as your authority is to resist the current privatization of morality and to choose a leader who is clearly trying to be led by God in his or her own life.

The second point that Dr. Barnes makes is that choosing a leader is always a choice about a particular vision for our life together. And we have heard lots of talk about vision: Do we have vision in the campaign? What is the vision?

We all know the maxim that, "Without a vision, the people perish." But, according to some polls, almost 90 percent of us claim to believe in a God, and to pray. But we seem to be spiritually empty. And the reason we may be that is because we are no longer able to call for the sacrifice or discipline necessary to live by the teachings.

We, as Americans, cherish not only our freedom but our vision of life under God. That is what brought the pilgrims and the Puritans here. That was what native Americans and Hispanics had before we came, life under God. Slaves that were dragged here found a vision, that they could build a new life in the Biblical stories of God's deliverance.

So those who will now lead us have to offer some vision of our life together. This has to be more than just helping each person to get a piece of the pie. It has to be something that will, again, inspire sacrifice and commitment to the common good, something that will make us refuse to accept "the way it is said" and commit ourselves to "the way it can be."

Mr. President, I urge my colleagues who may be interested, and anyone else who is concerned about choices we make this fall, to read and ponder this sermon.

I ask unanimous consent it be printed in the RECORD.

There being no objection, the sermon is ordered to be printed in the RECORD, as follows:

CHOOSING GOOD GOVERNMENT

(By Dr. M. Craig Barnes)

Americans have always been ambivalent about authority. We know we need it. We honor and respect it. But we are still suspicious of it.

This is not surprising for a nation whose founding documents include a Declaration of Independence, which we cherish. But that independence has also been written on our hearts. It was what propelled us to explore the frontier and tame it with our hands. It was what almost split the nation in two over a Civil War. Our spirit of independence has led us to honor innovation and creativity, and a competitive economy where we are free to improve ourselves. It has even sent us overseas to fight tyranny and aggression, because we cannot stand the thought of people not being free. Every healthy American teenager knows about the longing to be free, and that longing never goes away.

So we are very careful about giving even some of this freedom away. But we know we have to. We give it to parents and teachers, to employers and to the elders of the church, and we give it to the government who can tell us what to do. They can restrict our activities with laws and regulations and they can direct us toward a particular future. We give these leaders power over our lives because we know we cannot live together without some authority. But we don't really like it.

One of our favorite American beliefs is that the real authority still lies with the individual who at least chooses the people to lead us. Very conscious of this, leadership today has tried to move beyond the hierarchial models of the past where the person at the top ran the show. Now, the last thing anyone wants to be accused of is being authoritarian. So we have developed a new emphases on "participative management" and "building consensus." But we are discovering this can digress into little more than servicing complaints. In essence, many leaders today are saying, "I'm must here to give you what you want." ("So I can stay here.") This has led many social and political commentators to ask who really has authority in a free society? The leader or those who are led?

According to Romans chapter 13, the answer is neither one. "Let every person be subject to the governing authorities; for there is no authority except from God." Now that is a rather strong statement. And just in case we want to gloss over it, Paul says the same thing three times in this passage. "There is no authority except from God . . . Those authorities that exist have been instituted by God . . . Whoever resists authority resists what God has appointed."

At first we want to object by asking what about tyrants like Hitler or Stalin? What about the boss or teacher who abuses their power. Is there authority from God? But then we remember that the Apostle Paul, who was inspired to write these words, lived under incredible tyrants like Claudius and Nero. Paul knew about leaders who abused authority, but he also knew about the sovereign power of God.

As a Jew, Paul was steeped in the Old Testament understanding of God's Kingdom—God's reign on earth which is greater than the kingdoms of earth and uses the kingdoms of earth for his own purposes. Which means all governments are under God. To the degree that human leaders obey God they are being faithful to their calling. To the degree that human leaders break God's commandments they are stepping outside of their authority, which can only come from God.

Actually the Bible is filled with illustrations of people who because they obeyed God could not obey their leaders. When Pharaoh ordered the midwives to kill all the Hebrew babies, they began to hide them and Moses' life was preserved. When Nebuchadnezzar ordered everyone to bow before his image. Meshach, Shadrach, and Abednego refused to obey. When Darius outlawed praying, Daniel continued to pray. When Herod ordered the death of the children in Bethlehem, Jesus' parents fled to Egypt with their son. When Peter was told by the Sanhedrin to stop preaching, he told his religious leaders, "We have to obey God rather than man." In everyone of those cases, people of faith were making heroic choices about who would govern them. And in every case, the choices were guided by a prior commitment to serve God the only real authority we have.

The Bible says nothing about either covenants or contracts between people and their leaders. That makes for good social and political theory, but it is not how the Bible orders our life together. The Bible claims both the people and the leader are under a common obligation to live under God, and the leader is but an instrument of divine purposes. Thus, we must help our government succeed in its calling to serve God. We cannot disregard the laws and direction of our leaders just because we had other preferences. We must still honor good leaders even when they make bad mistakes. In the words of B.B. King, "Only a mediocre man is always at his best." The only time we can refuse to obey our government is when in a great crisis in conscience we become convinced it has determined to lead us away from life under God's authority.

Rev. Michael Cassidy, a leader of the South African church's resistance to apartheid tells about the time he was summoned to appear before President P.W. Botha in Pretoria. When he entered his office, the president stood and began reading Romans 13. Botha claimed the passage called for unequivocal support of the Nationalist Government apartheid policy. Rev. Cassidy responded by reminding the president he too had read the Bible and began quoting from Revelation 13, which describes governments that become dragons when they devour God's people. The authority doesn't lie in the leader. The authority lies in God, whom the leader also serves.

Here in the land of the Free, we are given a wonderful opportunity to make choices about who will lead us. We can elect leaders. We can choose an employer, or a church, or a politician. Behind each of those choices. for people who believe in God, is a decision about which leader will bring us closer to the reign of God. Let me offer two guidelines to help us in our choices about who will lead us closer to God's kingdom.

1. To choose God's leader is always to choose Godly character. We live in an era when the issues of character and integrity have somehow been taken off the table for consideration. Try bringing up the issues of personal morality of a leader at work and you are likely to be told, that is a private issue. The question is can he or she do the job." But as King David discovered people who do not make good personal choices are compromised in their ability to make good public choices. Biblical leadership is never seen as a job. It is a calling. It is a way of life for which the leader is a symbol.

People who choose to live by the Bible are given rather clear standards of ethical behavior. Some things are right. Some things are wrong. Not wrong because it is ineffective or unpopular. But wrong because it isn't the right thing to do. To choose God as your authority is to resist the current privatization of morality and to choose a leader who is clearly trying to be led by God in his or her own life. The evidence of that is not only in things like sex and money, but also in the morals we don't talk about as much in Washington—like humility, and graciousness, and the refusal to become mean just because it helps you survive.

2. Choosing a leader is always a choice about a particular vision of our life together. In a recent article in the journal First Things, Thomas Reeves asks why does our country seem to be so spiritually empty when according to the Gallup poll 90% of us claim to believe in God and to pray? One of his suggestions is that our religious leaders no longer have a vision of another way of life. Thus, we are no longer able to call for the sacrifice or discipline necessary to live by the Spirit. So the prayers of the people have become self-indulgent expressions of consumerism, where we keep asking God to give us something we can't get for ourselves.

John Updike's novel, In the Beauty of the Lilies, begins with a Presbyterian preacher named Clarence Wilmot who loses his faith at the turn of the century. For Rev. Wilmot it seems Christ is still hiding in the beauty of the lilies across the sea from us. He cannot find the Savior. He's overwhelmed by urban poverty and the injustice of his own parishioners. He finds no answers in the new liberal theology that adores scientific and cultural potential, but has little to say about God. Eventually he drops out of the ministry and becomes an unsuccessful encyclopedia salesman. No longer able to proclaim truth, he now peddles information.

The novel then traces how this loss of faith and vision is visited upon his children and grandchildren. Clarence's son becomes frightened of life. The author writes, "Nothing made Teddy indignant. He was curious about the world but never with any hope of changing it. He had no faith to offer. Only the facts of daily existence." Clarence's granddaughter became what the author calls a ego-theist who is preoccupied with herself. She doesn't seem to be troubled by morals, but finds it useful to pray to God for success. His great grandson became so lost and disillusioned that he fell easy prey to a cult leader who destroyed his followers in a fire.

Throughout the novel, the reader watches these characters make one bad choice after another. The book ends without any redemption or hope, but simply with two words, "The children." I was so upset, I slammed the book shut and threw it across the room. It was an awful book. But it's true. Without a vision of life, without something more than our current preoccupation with information and success, we are destroying not only ourselves, but our children.

To be American means to cherish not only our freedom, but also our vision of life under God. That was what brought Pilgrims and Puritans here. That was what Native Americans and Hispanics had before we came—Life under God. Slaves that were dragged here, found the vision to build a new life in the Biblical stories of God's deliverance. Immigrants that piled into the land came with the vision that there was a life here for them too—as Americans under God.

So those who will now lead us have to offer some vision of our life together. This has to be something more than just helping you get your piece of the pie. It has to be something that will again inspire sacrifice and commitment to the common good, something that will make us refuse to accept the way it is and commit ourselves to the way it can be.

Where will our leaders find a vision with that kind of authority? From their own faith in God. The only authority we have.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent to speak as in morning business.

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

THE NEED FOR A COMPREHENSIVE APPROACH TO BATTLING METHAMPHETAMINES

Mrs. MURRAY. Mr. President, in recent years, there has been been one issue that, perhaps more than any other, has sent waves of fear through our communities—the scourge of illegal drugs and the threat they pose to our children and families. As the 104th Congress comes to a close, I want to reflect on one aspect of this growing threat: the increasing use and manufacture of methamphetamines.

The use of this drug is increasing among youth and young adults. According to the most recent Drug Abuse Warning Network, methamphetamine-related deaths increased nationally by 145 percent between 1992 and 1994 and methamphetamine-related emergency room cases are up 256 percent since 1991. In addition, methamphetamine-related hospital visits more than tripled between 1991 and 1994, with the largest increases occurring in Los Angeles, San Francisco, Seattle, and Denver.

In case my colleagues are not familiar with this drug, it is commonly called, in its various forms, speed, crank, ice, and meth. It's cheap, easy to get, highly addictive, and very, very dangerous.

This drug can be inhaled, injected, ingested, or smoked. Its effects include feelings of alertness, euphoria, self-confidence, and impulsiveness. It can lead to rage, depression, paranoia, delusions,weight loss, abnormal heartbeat, insomnia, confusion, and auditory hallucinations. It has increased its purity in recent years and its effects can be sustained for up to 8 hours. Abusers may remain awake for days or weeks after a binge, then enter the most dangerous phase, know as tweaking, where they as most likely to suffer hallucinations, dramatic mood swings, and extreme violence.

While all drugs are cause for concern, the increase of methamphetamines pose unique problems for law enforcement and communities, namely clandestine labs.

In recent months, I have met with groups of law enforcement officials including Washington State Patrol Chief Annette Sandberg, U.S. Attorney Kate Pflaumer, and representatives of many local law enforcement agencies, including Shoreline Polices Department, Snohomish County Sheriffs Department, Lynnwood Police Department, Everett Police Department, Marysvill Police Department, and Mukilteo Police Department. Without exception, all mentioned the increasing numbers of clandestine laboratories used to manufacture methamphetamines.

These labs are easily assembled in hotel rooms, trailer homes, or other small structures in both rural and urban settings. Using a quick, easy and cheap method, dubbed the Nazi method because of its invention by the Germans to keep soldiers alert in World War II, legal ingredients are harnessed to create a potent form of methamphetamines.

Once these labs are located, local law enforcement officers must disassemble them, often at great risk to themselves. The chemicals used to make this synthetic drug include red phosphorous, iodine, hydrochloric acid, and, most importantly, ephedrine. These chemicals or their combination create hazardous waste and can be deadly if officers are overexposed to them.

According to the Drug Enforcement Agency, the clandestine nature of the manufacturing process and the presence of ignitable, corrosive, reactive, and toxic chemicals have led to explosions, fires, toxic fumes, and irreparable damage to human health and the environment. The so-called cooks or chemists in these clandestine labs simply dump hazardous chemical wastes on the ground, into streams or lakes, into sewage systems or septic tanks, or underground.

Law enforcement officials or firefighters require special training in health, safety, and disposal methods to deal with these labs. The cleanup of these dangerous sites is complex, expensive and time consuming. The contaminated materials and evidence can weigh up to several tons. The substances to which these law enforcement officers are exposed present very real health risks.

In addition to the danger posed to officers and the environment, unwitting future tenants of the motels, homes, or trailers may be exposed to toxic vapors that have permeated plaster and wood of buildings. Children may play in the soil or water onto which these chemicals have been carelessly or intentionally dumped. Passersby also may inhale these vapors as they pass a clandestine lab. Finally, chemicals may be stored in rental lockers or other semi-public places that lack proper ventilation or temperature controls. These improperly stored chemicals increase the likelihood of fire, explosion, and human exposure.

So, Mr. President, what should we do? I am in strong support of S. 1965, the Comprehensive Methamphetamine Control Act passed by the Senate 2 weeks ago and the House this weekend. That bill takes a multifaceted approach to the problem by addressing, among other things, importation of chemicals used to make the drug; increased penalties for manufacturing, possession of manufacturing equipment, and trafficking; higher civil penalties for firms that knowingly supply precursor chemicals; restitution for cleanup of clandestine lab sites; development of an interagency task force; public health monitoring; and public-private education programs.

I congratulate Senators HATCH, BIDEN, and FEINSTEIN on their efforts to help this Congress address the problem. I ask unanimous consent that my letter to Senators HATCH and BIDEN be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, September 25, 1996.

Senator ORRIN HATCH,
Chairman, Judiciary Committee.

Senator JOE BIDEN,
Ranking Member, Judiciary Committee.

DEAR ORRIN AND JOE: Last week, the Senate passed a bill you sponsored, the Comprehensive Methamphetamine Control Act of 1996. I understand the House intends to make up a similar bill this week. I strongly support the Senate bill, S. 1965, and urge you to work to ensure it becomes law this year.

In these last two months, I have visited with representatives of local, state and federal law enforcement. Over and over, these officials voiced concerns about the increasing manufacture, potency, and availability of methamphetamines. Local and state law enforcement officers said they felt particularly ill-equipped to safely and cost-effectively deal with clandestine labs and the hazardous chemicals they contain. The high cost, technical expertise and time required to investigate and eliminate these labs are hampering law enforcement's ability to protect our young people and communities from the threat not only of methamphetamines, but of other illegal drugs as well.

I pledge my support in any way I can to helping ensure this bill, S. 1965, becomes law. I also intend to work within the Appropriations Committee to see that coordination efforts are strengthened and our law enforcement officials have the tools they need to combat this growing threat.

Thank you for all of your work to date on this issue. I look forward to working closely with you on this important public safety issue.

Sincerely,

PATTY MURRAY,
U.S. Senator.

Mrs. MURRAY. Mr. President, I ask unanimous consent that I be added as a cosponsor of S. 1965.

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

Mrs. MURRAY. Another important piece to solving this puzzle in the Pacific Northwest is designation of a high-intensity drug trafficking area. I am happy to announce that contained in this bill is $3 million for the newly created Pacific Northwest HIDTA. This will help enormously as we try to coordinate our efforts among Federal, State, and local law enforcement to fight not only methamphetamines, but all other illegal drugs and drug trafficking in our region.

The Department of Justice has also developed the National Methamphetamine Strategy—April 1996. This report

is referenced in a colloquy I will have, in conjunction with this omnibus spending bill, with Chairman HATFIELD and Senator HOLLINGS about the need to address methamphetamines. This plan, which will be partially implemented when S. 1965 becomes law, lays out a legislative, law enforcement, training, chemical regulation, international cooperation, environmental protection, public awareness, educational, and treatment strategy. The multidisciplinary, multijurisdictional program provides the needed comprehensive approach to this problem.

Finally, money is critical. While I do not support simply throwing Federal dollars at this problem, the need for Federal support to help in coordination activities, technical assistance, and training cannot be minimized. In the bill we have before us, we make some major improvements in our war against these and other drugs. The DEA's budget was increased by 23 percent—that's a start. The U.S. Attorneys Office received funding for additional attorney's, which are critically needed. The Office of National Drug Control Policy received new money and additional HIDTA's. So, I believe this budget moves us in the right direction.

As I have suggested in the colloquy, I intend to work with my colleagues in Congress and in the administration to develop a funding and technical assistance strategy to address the unique problems posed by methamphetamines and clandestine labs. Our local and State law enforcement officials simply must have adequate money, training, and technical expertise to address the costly and dangerous threats posed by clandestine labs. I will then work to ensure funds are targeted to this vital area in the fiscal year 1998 budget.

Mr. President, as with all social and criminal problems, change can only occur if and when we all do our part. I pledge to work with Federal, State and local law enforcement, community leaders, my colleagues, and others to find a way to stop the spread of illegal drugs, including methamphetamines. I am committed to improving the quality of life, safety, and security of our children and communities. I look forward to continuing this important work in the 105th Congress.

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

The PRESIDING OFFICER (Mr. BROWN). The clerk will call roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, I ask unanimous consent to proceed as in morning business for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Massachusetts is recognized for a time period not to exceed 15 minutes.

FEDERAL EXPRESS ANTI-LABOR RIDER TO FAA REAUTHORIZATION BILL

Mr. KENNEDY. Mr. President, I strongly support the FAA reforms, but I strongly object to the anti-labor rider that the Republican leadership has attached to this bill.

This controversy is a good example of why the sun is setting on the Republican majority in Congress. As their parting shot at American workers in the closing hours of this Congress, the Republican leadership is demanding that an unacceptable anti-labor rider be attached to this needed aviation security bill.

That riders is special interest legislation of the worst kind. It is designed to help Federal Express Corp. block the ongoing efforts of its truckdrivers in Pennsylvania to join a union.

Federal Express is notorious for its anti-union ideology—but there is no justification for Congress to become an accomplice in its union-busting tactic. I intend to do all I can to see that this anti-worker rider does not become law. It has no place on the FAA bill, and it deserves no place in the statute books.

I believe that as the facts of this controversy become widely known, working men and women across America will be shocked at the lengths to which the Republican majority in Congress is willing to go in their attempt to enact their anti-worker ideology into law.

Why is Federal Express willing to go to such drastic lengths to force this rider into law? Because they see the sun setting on the Republican anti-worker majority in Congress, and they know there is no hope that their special interest provision will be enacted by a Democratic proworker majority in Congress.

On September 26, under the guise of a technical correction to the Railway Labor Act, an unacceptable special interest provision was attached to the FAA reauthorization bill.

This provision is in no sense a technical correction. It makes a significant change in Federal law to give the Federal Express Corp. an edge in its blatant attempt to stop some of its employees from joining a union.

Under present law, airline employees are covered by the Railway Labor Act, which requires employees to form a nationwide bargaining unit if they wish to have a union. Truck drivers, however, historically have been subject to the National Labor Relations Act, which allows smaller bargaining units to be established on a more local basis.

This split coverage makes sense. It has been national labor policy since the 1930's, when the National Labor Relations Act was passed and the Railway Labor Act was amended to cover airlines as well as railroads.

United Parcel Service, which has both airline and trucking components of its business and competes with Federal Express, is covered by the Railway Labor Act for its airline operations and by the National Labor Relations Act for its trucking operations. UPS truck drivers formed local unions decades ago pursuant to the National Labor Relations Act, and are members of the Teamsters Union.

Federal Express truck drivers are not unionized. However, truck drivers at the Pennsylvania facilities of Federal Express have been trying for nearly 2 years to organize and become members of the United Auto Workers. The drivers filed a petition for a union election with the National Labor Relations Board in January 1995.

Federal Express challenged the petition, arguing that the entire company, including its truck drivers, is covered by the Railway Labor Act, not the National Labor Relations Act, and that therefore the bargaining unit for its truck drivers must be nationwide. The Board has not yet decided the issue.

This is a matter that is currently in litigation, even while we are here today. We ought to let the litigation move forward. But the action that was taken on the FAA bill has preempted effectively the litigation which is under consideration even as we meet here this afternoon.

In the final days of this Congress, Federal Express is trying to short-circuit the NLRB process by including an amendment in the FAA reauthorization bill to guarantee that its truck drivers are covered by the Railway Labor Act, and thereby block local union-organizing efforts by its truck drivers in Pennsylvania and elsewhere.

You can say, "Why not just let them proceed under the existing law, either they have the support and have the votes or they don't?" And let the National Labor Relations Board make a judgment as to whether the Railroad Act applies to them or whether they would be treated under the National Labor Relations Act.

Just under 3 weeks ago, the Senate Appropriations Committee defeated an attempt to add the Federal Express rider to the Labor-HHS appropriations bill. The attempt failed on a 10 to 10 tie vote. Earlier, in the House of Representatives, Republicans tried to add the provision to the railroad unemployment compensation bill, which had overwhelming bipartisan support. The attempt created so much controversy that Republicans quickly abandoned the effort.

It makes no sense to tie this objectionable provision to important legislation like the FAA bill. This bill authorizes the FAA's programs for 2 years. It provides for needed improvements in the Nation's airports. It

streamlines the FAA's construction program to improve its efficiency and make it less complicated.

The bill also contains important safety measures, including needed provisions to improve security at the Nation's airports. It is a good bill, deserves to pass, without the special interest rider for Federal Express.

Supporters of the Federal Express rider claim that it is simply a technical correction. That is false. In 1995, as part of the act terminating the Interstate Commerce Commission, Congress deleted the term "express company" from the Interstate Commerce Act and the Railway Labor Act.

We deleted that term because the last express company, the Railway Express Agency, went bankrupt in the early 1970's. In a true "technical correction," Congress deleted this obsolete language from the statutes where it appeared.

> The deletion of "express company" from section 1 of the [Railway Labor Act] does not appear to have been inadvertent or mistaken.

This is the conclusion of the Congressional Research Service. We had distributed to us a number of pieces of paper from some of the House Members who had been active in initiating these provisions. They make the point that this was really a technical amendment and was really because it was inadvertent that this language was left out of the restructuring of the interstate commerce legislation in 1995 when we eliminated the Commission.

This is, according to the Congressional Research Service, their conclusion of analyzing the history of this proposal:

> The deletion of "express company" from section 1 of the [Railway Labor Act] does not appear to have been inadvertent or mistaken. To the contrary, the deletion appeared to be consistent with the statutory structure and the intent of Congress. Since the [Railway Labor Act] coverage had been triggered by federal regulation of express companies, it appears logical and necessary to eliminate the cross-reference to Title 49 from the RLA to preclude ostensible coverage of nonexistent express companies. The elimination of "express company" from the RLA therefore appears to have been a necessary step in harmonizing the RLA with the revised Title 49 of the U.S. Code.

So here is the Congressional Research Service, when they are asked—as this is an action that was just taken on Friday of last week—whether the changing of this with the legislation is just correcting a technical oversight or whether the elimination of those words of art "express company" was intentional, their review of the history shows it was intentional.

It passed virtually unanimously in the House and the Senate for the reasons that have been expressed in their memoranda. We will include that as a part of the RECORD. So this was not a technical correction.

But Federal Express was not and is not an "express company" within the meaning of the Railway Labor Act or the Interstate Commerce Act. They define exactly what is an "express company" and what has not been. They have been defining that for a long period of time, for a period of years. And they have made that judgment to date.

The Interstate Commerce Commission defined that term as a company that provided expedited services in handling small, highly valuable packages over regular routes and by a regular schedule. The ICC did not consider FedEx to be an express company because it did not use regular routes and a regular schedule. Instead, the ICC viewed FedEx as a "motor carrier."

Federal Express argued to numerous courts that it was a so-called express company, but no court ever adopted the arguments, and at no point did the ICC ever set rates for Federal Express as an express company.

Federal Express claims it is an express company because it is the successor to the Railway Express Agency. A Federal Express subsidiary bought some of Railway Express' operating certificates in the 1970's, but those certificates covered motor carrier operations and not express company operations. In any event, Federal Express never operated under those certificates. Even if Federal Express were a successor to Railway Express' motor carrier operations, it is not a successor to its "express operations."

In closing, it is important to look beyond the legal technicalities and talk about what is really at stake here. Hundreds of truckdrivers in the State of Pennsylvania want to join the United Auto Workers and bargain with Federal Express over the terms and conditions of their employment.

Federal Express is trying to deny those employees their right to organize. That is basically the issue. We are being asked, as an amendment to the Federal Aviation Act, to intercede in terms of a labor dispute. That is a decision that we have to make. It is only for the benefit of one particular company. That is Federal Express. It does not have application to any other company. Just one company. Just one company. That particular provision was put in here at the end of last week, just hours before we are supposed to adjourn. It will have a very significant and important impact in terms of that particular company over a significant period of time in its ability to compete with other companies.

UPS, for example, certain parts of it deal with the Railroad Act with regard to its air carrier provisions. Those provisions that apply to trucking deal with the National Labor Relations Act. They have a division. They have been able to make that kind of adjustment. But not Federal Express. They want to be able to have the legislation of the Railway Act to apply to the trucking industry. That has a special significance at the present time that will effectively legislate the outcome of a particular labor difference.

We here in the Senate ought to be about passing this FAA bill. This FAA bill is enormously important for the airlines, the communities all across this country. I heard great eloquence earlier today about the importance of this legislation in terms of smaller rural communities. I am in strong support of it.

None of us who support the position which I have outlined, which is effectively to strike this language and send the whole FAA authorization over to the House—there is every indication they would be willing to accept it. There was a relatively close vote over in the House of Representatives on this particular item. The House narrowly accepted the technical changes, the alleged technical changes, which have been included here.

But I do not know why we should be delaying airline safety for a special-interest provision. We ought to pass the airline safety provisions and get them down to the White House and get the President to sign those provisions, rather than taking the time of the Senate to skew the legislation to a particular outcome with regard to a labor dispute, and that is what is happening here.

We are asked about whether we are prepared to hold this legislation up. The fact of the matter is this FAA legislation could pass as far as I am concerned immediately with unanimous consent this afternoon, right now.

Federal Express is the one that is holding this up. They are the ones that are holding this up. We will have a chance to get into that in greater detail over these next few days to see whether they are justified in that particular provision. I do not believe they are justified in it.

The effective impact, Mr. President, is, as we know, that if it is defined that this particular group, those who drive trucks, are going to be defined as being air carriers—which is effectively what they want to be able to try to do because air carriers have the requirements of having a national board or a national group in order to be able to bargain collectively, because of the definition of "air carrier." But we have not done that with regard to the trucking industry.

We have not done that with regard to the trucking industry. Now, Federal Express wants to have that same application for local trucking companies, and the local truck companies say, "Let us bargain. Let us become a union. Let us make a judgment decision whether we favor to become a union or not and if we do, let us be able to bargain collectively." Federal Express says, "No, you have to have a national organization. You truckers that

are there in small towns have to be able to get the people in the Far West, every community in this country that is served by Federal Express, get every local trucking driver and get a national organization or a national board." That is what Federal Express wants to be able to do.

Now, that is such a convoluted interpretation of what the history and the interpretation of either the Railway Act or the National Labor Relations Act is as to be stunning. And they want to do it on this legislation. They are not even prepared to let it go to the committee and have hearings and hear about it. No, they want it on this legislation, and they want to do it for this one company, for this one company.

So, Mr. President, we are asked to just roll over. That is the effect. This idea that it is just an oversight, as I mentioned earlier, I think we ought to not look just at what the proponents are trying to suggest, but for the analysis done by the Congressional Research Service that has reviewed the history. There will be those that will say this is not really affecting workers' rights. Of course it does. It affects a particular situation that is taking place today in Pennsylvania that is under review in litigation today. Are we prepared to say, "Let the litigation come to end?" No, no, we are not. We are prepared to impose, we are prepared to impose a legislative answer on that.

I yield the floor.

The PRESIDING OFFICER (Mr. STEVENS). The Senator from South Carolina.

Mr. HOLLINGS. I ask unanimous consent to continue now for 15 minutes.

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

FEDERAL AVIATION ADMINISTRATION REAUTHORIZATION ACT

Mr. HOLLINGS. Mr. President, I just returned to the city a short time ago, and I am sorry I did not hear the arguments earlier today relative to the FAA authorization bill, nor did I have an opportunity to hear my distinguished colleague from Massachusetts and all of his comments, but I was interested as I walked in to hear him talk about safety.

Mr. President, there is a special interest. My colleague was talking about a special interest. There is a special interest that I would like to represent that is best delineated by none other than Mark Twain. Mark Twain said, "Truth is such a precious thing it should be used very sparingly." I represent that special interest of truth on this particular matter, and the facts will sustain it.

What happens is we had the ICC Termination Act last year, and in the engrossing, the final drafting up of the document for the President's signature, everyone had gone. There was just staff there checking. Here is a case of the railway express being sent to the lawyer at ICC who said, "I think you can just leave that out." The two little words "express carrier" were deleted from the ICC Termination Act.

However, there is no question, no one knows of this. I challenge the Senator from Massachusetts who feels so strongly and wants to tell us about cases he can read to the Members, I challenge the Senator to point to me, the Senator point to me, the House Member, who said I wanted to make sure I introduced it, or I brought it up or I discussed it.

The reason I emphasize that, because my colleague now talks about jamming, and at the last minute changing and whatever it is. What the Senator from South Carolina wants to do is correct that jamming, if that is what it was. He said it was intended. I have not seen the CRS opinion, but I will get it. That specifically is in contradiction to the Termination Act.

I will read from the act of 1995, December 15, just last year, section 10501 "General Jurisdiction." "The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and employers by the Railway Labor Act."

So, there is a manifest intent of the Congress. They were not affecting rights that now we are trying to grab and change around. Heavens above, since this institution, Federal Express is an air carrier, has been, to the surprise of many, governed by the Railway Labor Act.

In fact, they had a hearing on the day he is talking about over in Philadelphia and they have already ruled. They ruled November 22, 1995, that Federal Express had taken the right position. They did not rely on the express language in the ICC Act, but general law where they find them both as an air carrier and as an express carrier. Everyone that has practiced in this particular field will tell you that is the format of law. Some will contend, what is the matter if the law has not changed? I am trying to change an ambiguity, but more than that, I am trying my best to forestall an assault on the truth and the facts, an assault a bunch of Washington lawyers trying to take advantage of a mistake.

Teamsters—I keep hearing in the Halls, "the Teamsters, the Teamsters, the Teamsters" have the Senator from Massachusetts all balled up on this and he has to go to bat for them. I have more Teamsters than any kind of Federal Express, just with regular delivery services, I imagine. We have $100 million United Parcel Service facility there and the finest Teamster crowd you have ever seen. We have them at Owens Corning and Mack Truck, and otherwise they have been very supportive of this Senator. They have not told me of a conflict. Another Senator earlier today said just exactly that.

The idea that we are coming here at the last minute—what happened after that, the mistake was determined at the end of February or the beginning of March over on the House side. When they learned that, Mr. President, they put in a measure which was blocked. I was asked—because I am the ranking member of the particular committee with the ICC, as the distinguished Presiding Officer knows—"Well, it happened on your watch; do you mind correcting this mistake," and I say, "Not at all."

I presented it in the Appropriations Committee we had an 11–11 vote, not 10–10. I did not have the proxies or we would have passed it, and the mistake would have been corrected. I did not bother with it. I thought everybody would want to correct an innocent mistake.

Come now, Mr. President, with the idea we are trying to jam or hold up safety legislation or the FAA bill, or this is not the place for it, and everything else at the last minute is totally out of the whole cloth. They know differently. They are playing their political strength.

I do not know that Federal Express has got much political clout because they are not in South Carolina, and I am not that familiar with them, but I do know that I am not only keenly interested in the truth but I am interested in the operation. I might as well plead guilty on this score because, Mr. President, 10 years ago when I was trying to find hay for the farmers and their herds down in South Carolina I finally located some up in Massachusetts. I called over to the White House, as other Senators were calling, and the White House said, "Senator, there is no hay for you." "There is no plane for you." I said, "Come on, Senator so and so." "You do not understand, Senator, there is no plane for you."

I said heavens above, I commented in the cloakroom to a few of my colleagues, that was a heck of a note. I had the hay. I had the cattle that were starving and the farmers that were ready. But the phone rang and there was a fellow named Freddy Smith from Federal Express. He had heard about it and we called, and the next thing you know, he had two planes, Federal Express planes, bring it down one Sunday.

I had my commission of labor—the 4–H Club, and all of us there, my wife and myself—and we unloaded the hay all Sunday morning and afternoon. I said, "I will never forget that fellow." So when they told me about the innocent mistake and told me it involved Freddy Smith, I got a very, very strong feeling about this.

I am not going to yield to the nonsense and mythical chicanery that is coming about here because they have

the political clout. I know he said Republican. No Republican put this in. Democrat HOLLINGS put it in. It was not sneaked in or jammed in. We discussed it several times. It was an appropriate measure for it. In the conference, it was 8 to 2 in the vote to put it in. It passed by a strong vote on the House side.

He is trying to make it a partisan thing, which is unfortunate, because right is right and wrong is wrong. Here is the intent put in there, and I am going to get the decisions made because I have been called over now. I didn't think we were going to have to try to cave in for the truth around here. But right this minute as they talk about that case, the mediation board back in November 1995 ruled against them. It isn't trying to try a new practice. If you can get a choke point in one little town and close down a whole thing, you have no express service. And in the interest of express service, that is what is intended by the Congress. We are not trying to get anything new. We are trying to get something contained and maintained in the law that has allowed this particular airline carrier to flourish and grow. There is nothing new about this. We are trying to get it back.

As stated in the statute itself—I emphasis by reading it the second time—the enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and employers by the Railway Labor Act.

Now, who is trying to sneak in or jam or get something changed? If it is HOLLINGS, he is trying to get it for the truth. He is trying to get back to the facts. He is not trying to get an advantage or disadvantage. He is trying to get back to the intent of Congress.

We were there. The Senator from Massachusetts is not on that committee. He is not on that conference. But he talks like now we are jamming it, and everything else of that kind. I am not going to let that rat-a-tat go by on this floor. I have got good time here. I know about the FAA. It is on my committee. I can tell you that right now. The FAA has not only its grants given to the airports, it has its trust funds to operate in a certain measure the airports. It has its trust funds for the safety devices and otherwise in there.

So I can tell you, it is not done for one company, and we have to have hearings. Come on, that ought to be ashes in their mouths. Have hearings? When did they have hearings to delete? Who called the hearings? Name the Senator. Name the House Member. Name the committee. They have the unmitigated gall to come here and act like it is orderly procedure; now let us get hearings when they have done the sneaking and they have done the jamming. They ought to be ashamed of themselves.

I yield the floor.

OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. GRASSLEY). The Chair recognizes the Senator from Indiana.

Mr. COATS. Mr. President, I defer to the chairman of the Appropriations Committee.

Mr. HATFIELD. If the Senator will withhold for a moment, we want to get a unanimous consent so we can adopt the appropriations bill.

Mr. COATS. I yield to my opportunity to be recognized by the Chair. I would be happy to withhold for a moment while the chairman of the Appropriations Committee and the ranking member discuss it.

Mr. HATFIELD. I thank the Senator.

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

Mr. HATFIELD. Mr. President, the majority leader and the minority leader have worked out a unanimous-consent agreement.

The ranking member of the Appropriations Committee, Senator BYRD, and I have gone over this. And we also concur.

So, at this time, Mr. President, with Senator BYRD's presence on the floor, I would like to propound the unanimous-consent request.

I ask unanimous consent that final passage of H.R. 4278, the omnibus appropriations legislation, occur no later than 6 p.m today, with the time between now and 6 p.m. equally divided between the two leaders, or their designees; and, further, that no amendments, motions, or points of order be in order.

The PRESIDING OFFICER. Is there objection?

Mr. COATS. Mr. President, reserving the right to object, I am wondering if I could slightly amend to allow this Senator no more than 5 or 6 minutes to speak on the matter that I was recognized for before the request occurred.

Mr. HATFIELD. I yield the floor for that purpose.

I would like to get the agreement first.

Mr. COATS. But, as stipulated, it would preclude my opportunity to do that. I am just wondering if the Senator would amend his unanimous-consent request so that this Senator, who had been recognized before the unanimous-consent request, would be allowed to speak as if in morning business for up to 8 minutes.

Mr. BYRD. Mr. President, reserving the right to object, the Senator will have no trouble getting time from his leader. The time is equally divided between the two leaders.

Mr. COATS. That would be acceptable to this Senator. I am not speaking on the continuing resolution. So I will speak as if in morning business. I want to make sure that I have the opportunity to get that time.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. I reserved the right to object.

Was this other matter resolved?

The PRESIDING OFFICER. I am sorry.

The Senator from West Virginia.

Mr. BYRD. Was the matter resolved to the satisfaction of the Senator from Indiana?

Mr. HATFIELD. We do not want to cut out the Senator from Indiana.

Mr. COATS. I want to make sure I have the opportunity to speak.

Mr. HATFIELD. I can assure the Senator from Indiana, as we have been speaking as if in morning business, with the colloquy that was just going on which the Senator from Indiana would like to engage in, I will have no objections to whatever parliamentary request he has to make in order to speak.

Mr. COATS. That is more than acceptable to this Senator.

Mr. KENNEDY. Mr. President, reserving the right to object ——

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I believe that the minority leader will give me 5 minutes. But it is not on this related matter of the continuing resolution. It is from the minority leader's time. I wanted to have a continuing discussion on that measure. I need maybe 4 minutes or 5 minutes sometime.

So I would be glad to do whatever. The measure which they are managing is of the utmost importance. I wanted to get 5 minutes just to respond quickly to the matter. So I am glad to do it in whatever way the two leaders want to proceed.

The PRESIDING OFFICER. Is the body ready to put the question?

Mr. KENNEDY. Mr. President, I hope maybe that—reserving the right to object—out of that time we are going to have the leader to be designated to have 5 minutes.

Mr. BYRD. I hope that the distinguished Senator will include that in his request.

Mr. HATFIELD. Could I include the same as I did for the Senator from Indiana?

Mr. KENNEDY. That would be fine.

Mr. HATFIELD. That the Senator from Massachusetts be recognized to make whatever motions necessary to get the 5 minutes after we get this approved.

I would have no objection.

Mr. BYRD. Do I understand the Senator wishes to have his 5 minutes on the continuing resolution?

Mr. KENNEDY. No, just on the earlier matter being discussed. I do not want to interrupt the two chairmen on this very, very important matter.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I further ask unanimous consent that following the vote on H.R. 4278, the Senate proceed to vote on the adoption of the DOD appropriations conference report, all without further action, and that all points of order be waived.

Mr. BYRD. Mr. President, reserving the right to object, I shall not object, I very much advocate both of these requests. I did so in the conference earlier today, conference among Democrats. I feel that there should not be any amendments to the continuing resolution. I am not satisfied with everything that is in the resolution, but I do think the time has come to adopt the resolution without a great deal of debate this afternoon and without amendments because amendments would simply mean that the continuing resolution would go to conference, and I presume that the leader would probably take that continuing resolution down and call up the conference report, which is not amendable and therefore not conferenceable.

So it seems to me that the integrity of the Senate, the integrity of the legislative process within the Senate, the integrity of the Senate's right to amend and right to debate are all protected here, and that is what I am most interested in. We could offer amendments to the continuing resolution if we wanted. Consequently, any Senator could have objected to the request. We could debate at some length. I am sure that we Democrats do not want to be accused of shutting the Government down.

Therefore, it seems to me in the interest of all concerned—and as I say, in full view of the fact that the integrity of the process and integrity of the Senate's right to debate an amendment and amend have been fully protected—I have no objection, and I congratulate the Senator from Oregon and I also congratulate both leaders.

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

Mr. HATFIELD. Finally, Mr. President, I ask unanimous consent that of the time allocated to Senator LOTT, 10 minutes be allocated to Senator MCCAIN.

Mr. BYRD. Mr. President, reserving the right to object, does the distinguished Senator wish to include Mr. COATS in that request? And I will ask that the Senator from Massachusetts be included.

Mr. HATFIELD. I would be very happy to incorporate 5 minutes to the Senator from Indiana.

Would the Senator like to include 5 minutes for the Senator from Massachusetts?

Mr. BYRD. I would like to have Mr. KENNEDY accorded 5 minutes in the request, from the time under the control of the minority leader.

Mr. HATFIELD. That would be then 10 minutes for Senator MCCAIN, 5 minutes for Senator KENNEDY, and 5 minutes for Senator COATS.

The PRESIDING OFFICER. Is there any objection?

Mr. PRYOR. Mr. President, reserving the right to object—I do not want to object—I do not think that I am going to ask to speak for 5 minutes, but at least if I could reserve 5 minutes in this process for myself I would appreciate very much the distinguished manager allowing me to speak.

Mr. BYRD. Include 5 minutes to come out of the time under the control of the minority leader.

Mr. HOLLINGS. Is that all right, 5 minutes also here for the Senator from South Carolina?

Mr. HATFIELD. Another 5 minutes for Senator PRYOR and 5 minutes for Senator HOLLINGS.

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

Mr. HATFIELD. I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BYRD. Mr. President, I thank all Senators and particularly those who have been so courteous as to yield allowing this request to be granted.

The PRESIDING OFFICER. Who seeks recognition?

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

APPLICATION OF CIVIL RIGHTS AND LABORS LAWS TO THE WHITE HOUSE

Mr. COATS. Mr. President, I would actually like to speak briefly on a nonrelated CR matter or a nonrelated FAA matter. This is something that I was fully of the understanding would be cleared on both sides and become law after it was sent to the President in final closing action of the Congress. I have sponsored a bill along with Representative HORN from the House designed to eliminate a very dubious double standard that remains in the application of our civil rights and labor laws. That double standard was eliminated relative to this body in this Congress by application of the civil rights and labor laws which we had previously excluded ourselves from, that application now applicable to the U.S. Congress.

For too long and to the general disgust of the American people, in the laws which we passed requiring them to comply with the civil rights laws of the land and the labor standards of the land, we crafted an exemption for the Government. We said it is good enough for you but not for us. You comply with it subject to both civil and criminal penalties, but we are going to exempt ourselves.

I am proud that under Republican leadership in this Congress, we finally remedied that inequity that existed for so many years because now that same list of laws which applies to every American worker and every American under the civil rights laws and under the labor laws of this country now applies to us. The theory here is that if we have to be subject to those same requirements, perhaps we will be a little more careful before we impose egregious regulations on the American people.

I remember attending a closed meeting of Senators while we were debating this, and a Senator walked in and said, "You mean we are going to have to live by this? It is impossible. Our office cannot comply with the OSHA laws. Our office cannot comply with all these fair labor standard laws. We cannot do this." We said, "Well, now you know what the American people are complaining about. They are saying they cannot do it either. Sometimes they even conflict with each other. And maybe if we feel the pain ourselves, then we will be a little more careful when we impose that pain on others."

What I have attempted to do, along with Representative HORN, is simply apply this same standard to the White House. Today, the only exempted entity in America is the White House. The White House does not have to comply with the laws that the Congress now complies with and every other American complies with.

I was encouraged because the White House sent us a statement of administration policy which said that they support the bill offered by Representative HORN and myself, and I read this statement of administration policy which says, "We support H.R. 3452 that would apply civil rights and workplace laws to the Executive Office of the White House."

They, however, had a couple problems with that. They did not want an inspector general because they thought it raised constitutional issues, and they did not want equitable relief too, which really leaves a double standard in place, but the only way we could get this through before the conclusion of this Congress was to remove those. I did not want to remove them. Representative HORN did not want to remove them. But we were assured by the White House that if we could remove these, then they would be willing to accept this provision.

Now we find objections in the last day perhaps of the Congress. We find roadblocks. We find people stonewalling this, hoping the clock will run out so it is not passed. Talk about a double standard. Talk about a stonewalling so that the White House does not have to comply with all the rest of us. We are getting resistance. We are getting resistance from individuals who are trying to have it both

ways. "Oh, yes, these ought to apply to the White House." The White House is saying, "Oh, yes, they should apply to us," whether it is the Family and Medical Leave Act, OSHA regulation, Fair Labor Standards Act. They said, "Oh, well, we comply with it in policy."

That is what we were saying around here: "Oh, we comply with it in policy. We don't need to comply by legal means."

Obviously, that is not true, and if we are going to apply that standard we ought to apply it to the American public as well. So if we are going to have a law, the law ought to apply equally to everybody in the land. It ought to apply to Congress, it ought to apply to the public, and it ought to apply to the White House. Everybody has now complied except the White House. On the one hand, they are saying, yes, we support this effort if you will make these changes. We made the changes reluctantly in order to get it through. And now they have apparently sent instructions or someone has decided that they are going to protect the White House by letting the clock run out and not let us pass this.

It passed the House 410 to 5. There were only 5 members who objected to this, and that is the tougher language they said they needed revised or weakened in order for them to support it. Reluctantly, Representative HORN and I met and agreed to drop that tougher language that had passed 410 to 5—only 5 opponents.

So it is clearly a bipartisan bill. We dropped that language and have now presented it, and we were totally under the assumption that this was absolutely cleared by everybody. If we drop the one piece of language that the White House objected to, that cleared the House by 410 to 5, then surely there would not be a problem over here. But, yet, we are getting all kinds of resistance back, in terms of passing this here in the last days.

I do not understand why we are in this situation, but—well, maybe I do understand. It was James Madison who wrote a long time ago, that "an effective control against oppressive measures by the Federal Government on the people is that Government leaders can make no law which will not have its full operation on themselves and their friends as well as on the great mass of society."

In other words, what is good for the goose is good for the gander. What is good for the public, that we impose on them, ought to be good for us. We faced up to that fact. We stepped up to the bar with that. I was proud, under the leadership of Republicans, we imposed that on the Congress. Now we have to live by it. All we are trying to do now is extend it to the White House. They say they want it, yet efforts are being made to not allow it to go through.

Mr. President, I hope as we deal with these issues here at the last, waning moments of Congress, we will take our responsibilities seriously, and whether it is FAA or public lands or White House accountability, we will deal with this before this Congress adjourns.

I urge my colleagues to accept what the White House says it wants to accept, what the House in a total bipartisan fashion has accepted, and even a weakened version here in the Senate, that applies to the White House, is ready for passage if we can lift the restrictions against it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Massachusetts.

FEDERAL EXPRESS ANTILABOR RIDER TO FAA REAUTHORIZATION BILL

Mr. KENNEDY. Mr. President, I think I am entitled to 5 minutes. I yield myself 4½ minutes, Mr. President.

Mr. President, earlier in the discussion of the FAA and the special interest provisions that were included in the conference, I want to just point out there are some who have suggested this was really technical and it was not really a big deal. I hope our Members will review the House debate on it. The House of Representatives voted for final FAA reauthorization 219 to 198; 30 Republicans voted no.

It is useful for Members to have some opportunity to review that debate. Here Mr. LIPINSKI points out, in fact, talking about the conference, "In fact, there were no discussions between the conferees in regard to this particular provision until the absolute end of the conference when everything else was decided. A Senator brought forth a provision that prevailed." I understand that. But just because it prevailed in conference among 10 members, it should not mean that this House has to accept it.

Mr. President, earlier in the debate, Mr. Oberstar pointed out,

> I thank the gentleman for yielding time. Let me just get the record straight on this express issue. The reason for ending the ICC investigation and oversight of express carriers was the concept of express carriers had become obsolete. The ICC staff itself recommended the elimination of express carrier status. It was not an oversight, it was not something someone neglected to do, something that was not negotiated in drafting, it was not a drafting error. It was done for good reason. The last express carrier went out of business in the mid-1970's.

So, since it was obsolete, there were no hearings. If you are going to expand the definition of "express carrier" to include Federal Express, and amend effectively the National Labor Relations Act and the Railroad Act, you ought to have some kind of hearings to find out what the impact is going to be. That is basically what we are talking about here, is changing and expanding.

That is the same conclusion that these Members had, with what the CRS had. The ICC staff recommended it. Now we are being asked to put in these special kinds of provisions.

The House of Representatives, in a very close vote, for some of the reasons I have mentioned here—I will have more of a chance to bring in some of the excellent comments. We do not have the time this afternoon, but I understand we will have some time later on, to be able to get into this in greater detail. We will see why this is special legislation. It is special legislation for a special company. Let us make no mistake about it.

Federal Express wants to have a requirement that every truck driver in this country has to be a part of a national group in order to be able to be considered whether they can bargain with the company. A truck driver is a truck driver. The UPS has recognized the truck drivers for UPS are under the National Labor Relations Board. Why we ought to write special legislation in the last hour on the FAA conference report, that has so many important matters, including aviation safety, and that ought to be held hostage for a special provision for a special company is, I think, untenable.

But if that is the way it has to be, that is the way it has to be.

Mr. President, I understand there has to be additional debate on the underlying matter of the continuing resolution, so we will wait our time, and I yield what time we have.

The PRESIDING OFFICER. Who seeks recognition? The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I yield myself 4½ minutes, just like the distinguished Senator from Massachusetts.

Mr. President, "On balance," I am reading:

> . . . the amendment would appear to confuse rather than clarify the question of Railway Labor Act coverage. On the one hand, it could be argued that the amendment would have no effect. Since neither Federal Express nor any other employer was certified as an express company, subject to title 49, on December 31, 1995, it would follow that no employer could come under the coverage of the proposed amendment.

That is an argument, if I were the lawyer for Federal Express, I would be delighted to make. But it shows you how totally confused, not the decision language makes it, but how confused this silly lawyer is over there. Because the ICC does not give an air carrier certification—period. They never gave one to Federal Express. He does not seem to understand that.

However, let us go to the basic law.

I read:

> The Railway Labor Act was adopted in 1926 to provide for speedy administrative resolution of labor-management disputes. Section 1 of the RLA describes employers who are subject to the act's regulations: The term

"carrier" includes any express company, sleeping car company, carrier by railroad subject to the Interstate Commerce Act.

So, they found, then, that it was an express carrier, and then in 1936, I am reading also from the finding:

The RLA was amended to include air carriers within its regulatory ambit.

That is exactly what was reaffirmed here in 1993:

Federal Express Corporation has been found to be a common carrier as defined under 45 U.S.C. 151, 1st, and section 1(e)(1) of the Act.

Now they have been found both ways. We are not trying to start anything new.

For 25, 30 years now this thing has been governing all the cases, bringing it right up to date with respect to that Philadelphia case. There is no question that the National Mediation Board ruled, they ruled with respect to the Railway Labor Act. No reference was relayed on with respect to express language.

On November 22—and, procedurally, the NLRB is now making a final ruling there. So this is not any last-minute thing by Mr. LIPINSKI, saying it was brought up at the last minute. He was prepared. He said, "This will kill the bill. We will filibuster it," and everything else. They have political clout. But I think truth ought to have some political clout.

When an honest mistake is made, when no Senator and no Congressman ever even suggested it, now, in the aura of dignity, they say, "Hearings, hearings, where are the hearings?" Well, where in the world were the hearings that brought about this deletion that we are trying to correct? That is exactly the point. They did not have hearings. No one understood it. No one proposed it. They made an honest mistake.

I reserve the remainder of my time.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

TRIBUTE TO RETIRING SENATORS

Mr. SHELBY. Mr. President, this, we hope, will be the last day of this Congress, and I would be remiss if I did not have some remarks about some of my colleagues, on both sides of the aisle, who are retiring.

The first one I would like to mention is my colleague from Alabama, Senator HOWELL HEFLIN. He came to the Senate, when I came to the House, in January 1979. He had a distinguished record as a lawyer and then as chief justice of the Alabama Supreme Court. He was very involved in the reform of our judicial system in Alabama.

In the Senate, he has served with distinction and honor. He chaired the Ethics Committee for a long time. He was also very active, and has been throughout his career, as a member of the Judiciary Committee and as a member of the Agriculture Committee.

But there are a number of other colleagues, other than Senator HEFLIN, whom we will miss.

Senator SIMPSON of Wyoming, former whip, our assistant minority leader, a man of untold ability, wit, and intelligence.

Senator SIMON of Illinois, a man of, I believe, unquestioned integrity.

Senator DAVID PRYOR of Arkansas, who was on the floor just a few moments ago, a former Congressman, former Governor of Arkansas, and now ending his third term as a Member of the U.S. Senate where he, too, has distinguished himself.

Senator CLAIBORNE PELL of Rhode Island, one of our senior Senators, chairman of the Foreign Relations Committee, very active for many, many years in the area of foreign relations and international relations. He also has made his mark in the field of education. We all know about the Pell grants and other things that he has spearheaded in America.

My colleague Senator SAM NUNN of Georgia. We will certainly miss Senator NUNN, because I always thought he brought a very reasoned position to foreign relations and to the Armed Services that we all deal with from time to time. I thought he was an outstanding—and this goes without saying—chairman of the Armed Services Committee where I had the privilege to serve with him on that committee for 8 years.

Senator NANCY LANDON KASSEBAUM, a Republican from Kansas, currently the chairman of the Education and Labor Committee, a distinguished Senator in her own right. We will certainly miss her. Look at just her recent leadership, working with the Senator from Massachusetts, Senator KENNEDY, in the insurance field in which we have made tremendous reforms, thanks to her.

Senator BENNETT JOHNSTON of Louisiana, former chairman of the Energy and Natural Resources Committee. We are certainly going to miss him. He has had a distinguished career here, 24 years in the U.S. Senate.

Senator MARK HATFIELD of Oregon, the current chairman of the Appropriations Committee that I now serve on. He has served with untold distinction, too, on that committee and has been involved in recent days and nights in the negotiations with the White House on this budget resolution that we are getting ready to deal with in just a few hours.

Senator JIM EXON of Nebraska, a former Governor of Nebraska, three-term Senator from Nebraska. I had the privilege of serving with him on the Armed Services Committee where he, too, served with honor and distinction.

Senator WILLIAM S. COHEN, a Republican from Maine, a former outstanding Member of the U.S. House of Representatives before he was elected to the Senate. This is someone we will miss, not only his wit, his intelligence, his thoughtfulness, but also his writing ability at times helps us all.

Senator HANK BROWN, a Republican from Colorado. I had the honor to serve with him in the U.S. House of Representatives. What has saddened me, along with a lot of others, is, he will leave this body with such a bright and promising career after only 6 years.

Senator BILL BRADLEY of New Jersey, 18 years in the Senate, who has spent days and nights and weeks and months up here, I think not in vain, most of the time dealing with a commonsense income tax program for all Americans.

Mr. President, we will miss all these people because individually and collectively they have added a lot to this body. I wish them well in their future endeavors.

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. HATFIELD. 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. HATFIELD. I yield 15 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

AGE DISCRIMINATION

Mr. JEFFORDS. Mr. President, it will take weeks before we find out everything that has been included in the omnibus appropriations bill, but already we know it contains provisions that were not included in the appropriations bills of either body.

One of these provisions is section 119 of the Department of Defense Appropriations conference report, which contains amendments to the Age Discrimination in Employment Act.

This section would reinstate and substantially broaden a temporary exemption from the provisions of the ADEA given to public safety departments from 1986 through 1993.

Proponents of this language argue, and would probably like to believe, that this section does not amount to codification of discrimination. But here's how Webster's defines discrimination:

"To make a difference in treatment or favor on a class or categorical basis in disregard of individual merit."

That is a pretty clear statement. It is also a pretty good summary of the section in question. It says, in essence,

that no one who is older than 55 can effectively serve as a police officer or firefighter, regardless of whether they are fit or unfit.

But you don't need to take my word for it, and you don't need to take Webster's. The Leadership Conference on Civil Rights, this country's preeminent civil rights organization, opposes this legislation as discriminatory.

Let me read from the Leadership Conference on Civil Rights' letter on the bill that formed the basis of section 119:

This bill sanctions—indeed encourages—state and local governments to discriminate against their older workers. . . . Such conduct, which denies an individual a job based upon stereotypical and unproven assumptions about a class of workers, is precisely what Congress has prohibited in federal laws protecting employees' civil rights, e.g., Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act and other statutes.

This is the same view held by the Equal Employment Opportunity Commission, which is charged with enforcing the ADEA. In its comment on this bill in an earlier Congress, the EEOC stated that:

"If signed into law, [the bill] would undercut years of EEOC litigation in which we routinely challenged the use of arbitrary age limitations by police and fire departments. Further, the proposed amendment to permit state and local governments to require the retirement of firefighters and law enforcement officers as early as age 55 is inconsistent with a substantial body of case law under the ADEA that prohibited mandatory retirement of law enforcement officers and firefighters on the basis of an arbitrary age cutoff.

The EEOC is of course not the final word in adjudicating these matters. But the courts have generally agreed. In fact, the Supreme Court in 1985 rejected a mandatory retirement age for firefighters in the case Johnson versus Baltimore because Baltimore had failed to establish age as a bona fide occupational qualification, or BFOQ.

This brings up the point that employers can use a mandatory retirement age under the law today if they can prove it is a BFOQ, that is, the employer is compelled to rely upon age because all or substantially all of the class would be unable to perform the work safely or because it is highly impractical to deal with employees individually.

So we are left with two possibilities. Either public employers can prove age is a necessary proxy under the law and the Supreme Court precedents, in which case this bill is unnecessary, or they cannot, in which case the argument for this bill, that age is a necessary proxy, is unfounded.

Civil rights are messy. Look at all the voting rights cases still being played out across the country today, some 6 years after the last census. The EEOC and the courts are swamped with cases of all kinds.

From time to time there has been debate on the exact standards we should use in judging these cases, or what kind of damages should be available to plaintiffs.

But today marks the first time in my two decades in Congress that we have stood on the verge of turning back the clock and rolling back civil rights protections for an entire class of individuals.

Yes, individuals. Because our civil rights laws are not supposed to be about codifying group characteristics but about preserving individual liberties. Since Asian-Americans have a lesser risk of heart attacks than whites or blacks, should they be given preference in hiring as police or firefighters? Since women have a lower risk than men, should they be preferred?

Of course not, since doing so would be rank discrimination. But by what leap of logic can we conclude that applying this same approach to age is not discriminatory? Of course there is none.

Proponents of this bill claim that they don't want to discriminate, but that, in effect, the devil makes them do it. The devil in this case is allegedly a lack of tests that can determine individual fitness for duty.

That would be a powerful and attractive argument but for one fact. It isn't true.

This bill itself speaks to why it is not true. Unlike the temporary exemption enacted in 1986, which merely grand fathered the retirement policies in effect 3 years earlier, this bill would permit any police or fire department in the country to put in place mandatory retirement, whether or not it has even had such a policy over the last decade.

The fact is, a lot of departments have not relied on mandatory retirement. Researchers from the EEOC study sent out a survey to over 400 departments across the country. It was not a scientific sample, but did produce a wide cross-section of respondents. Of the hundreds of departments that responded, 55 percent had maximum age entry limits or forced retirement policies, but more importantly, 45 percent did not. Some of these departments face challenges every bit as rigorous as any other. The Los Angeles County Fire Department, for example, does not have a mandatory retirement age, but relies on fitness testing to determine whether individuals can still do the work. That testing has survived judicial scrutiny and can be replicated or modified and put in place in every other city in the country. Reno, NV, a smaller city, has made the transition and is quite happy with it. Its system is based on the testing put together by the Cooper Institute for Aerobics Research, the same company that designed testing for Boston, New York, and jurisdictions across the country. The Massachusetts Police Association, with 17,000 members, also supports performance based retirement, as does the Police Executives Research Forum.

The fact that this testing exists should not come as a great shock. Testing is used to screen applicants in virtually every department in the country. It is used widely to certify individuals as ready for return from disability. And as I have mentioned, it is used to certify continued fitness for duty as well. It is simply untrue that testing does not exist.

This testing has both costs as well as benefits. Obviously setting up such a system, and requiring periodic screening, takes some time and money. And it cannot be easy to confront a longtime colleague with the news that he is no longer fit to serve.

But these costs are minimal compared to the benefits of avoiding a patently discriminatory approach. And if the real purpose behind this legislation were the safety of officers and the public, there is little doubt we should engage in health screening rather than arbitrary retirement.

Why? Well, let's look at the facts. Proponents of this legislation make a lot of arguments about the potential for catastrophic health accidents amongst older firefighters or police. That sounds reasonable, as we know firefighters and police work in very hazardous environments.

But as it turns out, the rate of fatal injuries is as much as 6 times greater in industries such as logging, fishing and construction. A taxicab driver is twice as likely to be killed on the job as a firefighter. Yet all those industries operate without mandatory retirement.

Firefighting is a high risk occupation, with a fatality rate 4 times the national average. But what is the best way to combat this risk?

In 1994, the last year for which data are available, there were 42 deaths for all reasons among career firefighters, while the total number of these paid, permanent positions was 265,000. Thus, the total death rate for all reasons was .0001, or 1/100 of 1 per cent. Of these deaths, a little more than half, or 26, were at the fire scene.

Most of the deaths have nothing to do with this debate. They are the result of suffocation or trauma, accidents that happen without regard to age. At the same time, there were 13 heart attacks, and 1 stroke. But contrary to the claims of proponents of this bill, none of these heart attacks occurred in firefighters over the age of 60, and the incidence for firefighters in the age 56 to 60 cohort was the same as in the 31 to 35 age cohort. In fact, the heart attacks were spread fairly evenly over all age cohorts.

Out of the thousands of firefighters over the age of 55, there were two deaths due to heart attack. This is less

than the death rate for heart disease in the population as a whole, which is 357 per 100,000 for Americans aged 55 to 64.

But most importantly, most of the heart attacks among firefighters occurred in people with known heart conditions. According to the National Fire Protection Association, which gathered and studied the data:

> . . . a large proportion of the heart attack victims (approximately 8 of 13 paid firefighters) were known to have had heart conditions that should have precluded them from engaging in active firefighting duties.

If this bill were designed to improve public and occupational safety, it would attack the biggest problem, people with heart conditions that continue to fight fires. It does absolutely nothing to combat this problem. In fact, it probably makes it worse.

Fire departments now lack the authority to rely on mandatory retirement as a bad proxy for fitness. If they are going to act responsibly, they have instituted or will institute screening that should prevent people with known heart conditions from staying on the job. Such screening could have prevented 60 percent of the firefighter heart attacks in the last year for which we have data.

This bill, on the other hand, would make matters worse. Those departments that now monitor health would lose a major reason for maintaining their fitness programs, and other departments would have less reason to institute them.

This is exactly what happened in departments after the 1986 amendments, and it will happen again if section 119 is adopted.

If we want to prevent heart attacks and strokes, the effective avenues are not mysterious and do not include age discrimination. We should set up fitness programs and attack known risk factors like smoking and obesity and cardiovascular fitness.

We should reward individuals who maintain their fitness for duty rather sending them the message that it does not matter what kind of shape they are in, that they can just limp along until their mandatory retirement age.

I wish my colleagues could have heard the testimony we did in the Labor Committee from one of those individuals, Detective Bill Smith. Detective Smith is 55 going on 40. He weighs almost exactly what he did when he entered the Indiana State Police years ago, and when he testified that he remains physically and mentally fit, there was not a doubter in the audience.

Detective Smith is the State's senior hostage negotiator, and has years of training and experience that we will lose if we pass this bill.

In fact, one of the witnesses on the other side of the debate made clear that he would be proud to serve with Detective Smith, and that he didn't think that this legislation was about exceptional individuals such as the detective.

That is not an uncommon sentiment. But of course it goes to the very heart of this debate, whether we are interested in protecting the rights of those few officers who want to continue to work and are fit enough to do so.

Proponents of this legislation seem unconcerned about the individual rights at stake in this debate. Instead, they want to fire Detective Smith and thousands of other dedicated officers across the country in the interest of administrative convenience.

But it gets worse. Since 1986, state and local police and fire departments knew that mandatory retirement would become unlawful at the end of 1993. Apparently some jurisdictions maintained mandatory retirement policies, because this bill would reach back and extinguish the legal claims of individuals who were unlawfully fired over the past 3 years.

This is an extraordinary step. Under the ADEA, an individual is entitled to recover double back wages where the violation is willful, which I should think would be the case here for anyone terminated after the exemption expired.

Thus, we could be denying tens or even hundreds of thousands of dollars in back wages rightfully owed to individuals by jurisdictions that have flouted the law over the past 3 years.

We struggled mightily with the issue of retroactivity when Congress considered the Civil Rights Restoration Act a few years ago. There, the issues were fairly subtle, the courts narrowly divided, the changes by degree. Here, there is no subtlety whatsoever, there is no room for interpretation. Mandatory retirement became illegal in January, 1994—period. For any of my Republican colleagues concerned about retroactive taxation, this provision amounts to as much as a 200-percent retroactive tax on the wages due American workers.

And as for my Democratic colleagues, I would draw their attention to the Senate Democratic Action Agenda they unveiled with much fanfare some time ago. It promised action on three fronts: paycheck security, health security, and retirement security. Any of my colleagues who are truly concerned about that agenda will oppose this legislation, because it represents a retreat on all three fronts. Paycheck security. This bill is a legislative pink slip for thousands of hard working, dedicated and able Americans. No security there.

Health security. Public police and fire departments have almost universal coverage. What kind of jobs 55-year-olds will land, if any, is anybody's guess. Health coverage goes from a sure thing to a roll of the dice. Not much security there.

Retirement security. Detective Smith, if he could work a few more years, would add more than $6,000 a year to his pension. He doesn't need more laws from Washington to promote his security, he just needs us to let him do his job. Little security there.

As a footnote, one of the things the Democrats want to do is pass a tax deduction for education costs. That's great. One of the reasons Detective Smith wants to stay on the job is to help pay for his daughter's college education.

Proponents of this legislation argue that Detective Smith is simply an unfortunate casualty for the greater good, collateral damage in the words of the military.

But the tragedy is that the greater good does not require putting Detective Smith out on the street. The greatest good comes from treating him as an individual, from strengthening our public safety departments through a rational rather than an expedient personnel process.

I think the adoption of this provision is shameful. Mandatory retirement is age discrimination. If public employers could not convince the EEOC or the courts otherwise, they should not convince us.

But apparently they have. It is a sad day in the history of civil rights in this country. We have turned the clock backward.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Rhode Island.

Mr. PELL.

Mr. President, last Saturday afternoon, I joined some 15,000 of my fellow Rhode Islanders in a huge rally to welcome President Clinton to Providence. It was in Providence that the President announced his support for the omnibus appropriations bill that will soon be considered by this body. And it was in Providence that we heard the best news for education funding that we have heard in almost 2 years.

Approval of the legislation before us will increase Federal education funding by more than 12 percent over last year. Because of the President's leadership and particularly because of his commitment to education, this increase stands in stark contrast to the dire predictions of drastic cuts in education programs that marked the beginning of this Congress. It is a dramatic and encouraging end to this session of Congress.

Next year we will have the largest Pell grant in history. The maximum grant will be $2,700, an increase of $230 in one year. The number of low and middle income students receiving Pell grants will increase by 150,000. And the total number of students receiving Pell grants next year will reach 3.8 million.

We have also strengthened our commitment to education reform by increasing appropriations for the Goals

2000 program by almost 29 percent and upping funds for professional development by more than 11 percent.

We have provided a 16 percent increase in funding for Safe and Drug Free Schools. Less than 2 years ago we were fighting to keep this program from suffering a 40 percent cut.

The title I program will be increased by some $470 million next year, and two-thirds of that increase will go to our most needy and deserving schools.

Mr. President, in area after area in education we have good news and solid progress. This is an education budget we can cheer. It deserves our strong support.

We owe an enormous debt of gratitude to President Clinton and his administration for the strong leadership they have shown on behalf of education. And, we owe an equally enormous debt of gratitude to those from this body who played such an important part in helping fashion this agreement and bring forth such an encouraging education budget. In particular, I personally want to thank Senator HATFIELD, Senator BYRD, Senator SPECTER, AND SENATOR HARKIN for the vital role they have played in this dramatic achievement.

Mr. President, I hope the Senate will act with dispatch in approving this legislation

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I again express great appreciation for the statement that was made by our friend and colleague, Senator PELL, who reviewed for the Senate the various provisions in this agreement related to education. I think all of us are once again enormously impressed, as I know the people that he represents are, by his extraordinary commitment to enhancing the quality of education for young people all across this country. He diminishes his own strength by not mentioning his own very important participation and involvement over the period of recent years in maintaining a strong priority in education which is really reflected in this budget.

As a member of that committee, I commend him for all he has done over a very long and distinguished career in the area of education, and I think his tireless desire to ensure that we have a bipartisan effort in the area of education has been always a trademark of his leadership as well. So I think all of us who will read the history of this discussion about development of the continuing resolution know full well that in the area of education he played a very significant and major role, and I know everybody in the Senate understands it and appreciates it.

Mr. President, exactly 2 years ago, the late Barbara Jordan, Chair of the Commission on Immigration Reform, submitted to Congress a comprehensive set of recommendations to address the illegal immigration crisis in America. At that time, Barbara Jordan said, "Our message is simple. The United States must have a more credible immigration policy that deters unlawful immigration while supporting our national interest in legal immigration."

The bill that the Republican leadership tried to ram hastily through the Congress was weak in addressing illegal immigration and reflected the antiworker, antifamily, anti-immigrant, antirefugee, and anti-environment agenda of the Republican right wing and was an extreme Republican assault on the American worker and on working families. It did more harm to the country than good.

But after extraordinary negotiation last week involving the White House, the Republican leadership, key Members of Congress, those features of the Republican bill that came out of their conference that assaulted legal immigrants and made it impossible for working Americans to reunite their families here are now gone. Gone, too, is the unacceptable Gallegly amendment which would have allowed States to expel immigrant children from public schools and dump them on the streets. This unwise amendment would do nothing to stem the tide of immigration. It was vigorously opposed by police groups and educators because of the harm it would do to our communities. Congress is right to reject this provision.

Although the worst provisions in this bill on legal immigrants are gone, it is still not the hard-hitting crackdown on illegal immigration it ought to be. Republicans rejected our efforts to include strong provisions to punish unscrupulous employers who hire illegal immigrant workers and then exploit them with cheap labor and unsafe workplace conditions knowing they will not protest such conditions.

This bill winks at this shameful sweatshop practice. Americans will continue to lose their jobs as long as unscrupulous employers can get away with hiring and abusing illegal workers. Clearly, stronger legislation is needed if we are serious about dealing effectively with illegal immigration. And I intend to renew this battle again next year.

In addition, the provisions in this bill related to refugees and due process of law represent an improvement over the recently enacted antiterrorism law. But they still do not go far enough in restoring judicial revue and giving persecuted refugees a fair opportunity to seek asylum in America.

Most of the credit for what is before us today as part of this continuing resolution goes to our respected friend and colleague, Senator Al SIMPSON. We will miss his able leadership, vision and courage on the complex and challenging issues of immigration.

As I have said on many different occasions, immigration is not a high-profile issue in the State of Wyoming. They are not inundated with illegal immigration. There are important historical strains of legal migration in Wyoming, but certainly it is not a State that is confronted with these types of issues. But the fact that Senator SIMPSON over a very long and distinguished career in the Senate was willing to take the time, make the effort and had the energy to master the very complex policies that are affected by immigration and refugee policies and asylum reflects great national service. He was always there to make sure that no matter where the political winds were blowing, we kept our eye on the ball on matters of immigration, illegal immigration, and refugees. He and I did not always agree, but we found common ground, and everyone on that committee always found that Senator SIMPSON was willing to listen and to find the broadest of coalitions in the best interests of our country. And again the provisions that are included in this legislation to a great extent reflect the long effort on his part to make sure that we were addressing these matters in a responsible way.

I know there are provisions that were excluded that he would have favored to have included but nonetheless I would like to think that the more positive aspects of the provisions that we have included can be traced in origin back over a long period of time to the work of Senator SIMPSON, the Jordan Commission, the Hesburgh Commission, and other efforts of the committee.

Senator SIMPSON took the Jordan Commission's recommendations, conducted extensive hearings on them in our subcommittee, visited each Senator individually to obtain their views on what needs to be done, and conducted a fair and open process of debate on the bill in the subcommittee. When the full Judiciary Committee considered the bill last spring, he and Senator HATCH gave all members a full opportunity to present their views. Over 150 amendments were debated over 8 days and all members of the committee feel that the result was a much better bill.

In a similar spirit of bipartisanship, the Senate debated the bill for 2 weeks in April and May and after full and fair debate and votes on numerous amendments the result was an outstanding tribute to the leadership of Senator SIMPSON. The bill passed 97 to 3, a remarkable capstone to the commitment of this extraordinary Senator over almost 2 decades to ensure that our immigrant heritage is carried forward. As a result of his efforts, the Nation will look ahead to the next century better able to draw on the positive contributions of immigration to our country, while equipped with more effective tools to combat the unlawful immigration that is so harmful to our country.

The subsequent course of this legislation was less satisfactory for those of us who care so deeply about preserving our immigrant heritage while cracking down on illegal immigration. After extraordinary bipartisanship in passing the legislation in both the House and Senate, Democrats were suddenly shut out. Republicans sought to convert the legislation into a partisan political document to aid the Dole Presidential campaign in California.

As a result, unusual steps were necessary to reinject bipartisanship in this important legislation. The events of the past few days and the agreement achieved early Saturday morning have produced a far better bill for the Nation than the Republican conference report on which the Senate was scheduled to vote today.

President Clinton provided the strong leadership needed to persuade Republican leaders to back away from their extreme positions and come to the table to work out genuine bipartisan legislation for the good of the country.

The agreement addresses illegal immigrant head on. It reverses the serious mistakes by the Republican leadership to use illegal immigration as a pretext to attack legal immigrants.

Entirely different considerations apply to legal immigrants. They come in under our laws, serve in our Armed Forces, pay taxes, raise their families, enhance our democracy, and contribute to our communities. The original Senate bill had rightly rejected harsh attacks on legal immigrants, and so does this agreement. That is a major victory.

First, this agreement drops harmful provisions that would have made the recent welfare reforms even harsher for legal immigrants. Having banned SSI, food stamps, Medicaid, cash assistance, and other services for legal immigrants in the welfare bill, the Republican immigration bill would have expanded the restrictions to include Head Start, job training, and English classes. This was wrong, and this agreement corrects this grave mistake.

The Republican bill would have shifted the rules in midstream for legal immigrants already in America and their sponsors. The bipartisan compromise, on the other hand, retains the formulation in the new welfare law, which applies primarily to future immigrants. Without this compromise, the Nation's hospitals, clinics, and community based organizations would have been overwhelmed, and would have lost millions of dollars in Federal help.

Second, the comprehensive welfare reforms made legal immigrants ineligible for many types of assistance. The Republican bill penalized the few legal immigrants who still qualify for assistance by threatening them with deportation if they actually used the assistance.

If there are immigrants who abuse welfare—or use it illegally—they should be deported. In fact, current laws permit this step, and we should enforce them.

But it is wrong to add to the harsh new welfare reforms by saying to legal immigrants who qualify for child care assistance that if they actually use it, they can be deported. No parent should face that choice—of leaving their children home alone while the parent works or risking deportation by obtaining child care. It was right to eliminate these deportation provisions under the new bipartisan agreement.

Finally, it was wrong for Republicans to insist on putting family sponsorship off limits to lower income working American families. Under the Republican bill, 40 percent of American citizens would have been denied the right to bring in their families. The Republicans try to claim that their party is the party of family values, but this bill was a flagrant denial of such values. Under the Republican proposal, for the first time in the Nation's long immigrant history, low-income working American citizens would have been denied the opportunity to have this spouses and young children join them in America.

Republicans argue that most Americans who sponsor family members are, in fact, former immigrants, who knew when they immigrated that they would be leaving families behind. The fact is, according to the General Accounting Office, 64 percent of those sponsoring their families in any given year are native-born American citizens who were never immigrants themselves.

Republicans also argue that if we do not set high income standards for sponsors, then low-income sponsors will be pushed onto welfare because they have to support themselves and the sponsored immigrant as well.

To guard against this possibility, the bipartisan agreement establishes an income test for sponsorship at 125 percent of the poverty level. The agreement requires sponsors to sign an enforceable sponsorship contract that requires sponsors to care for those they bring in. And it requires sponsors to prove they can meet the requirement by submitting their tax returns for the past 3 years.

This is the approach which the Senate adopted in May and which was actively supported by many Republicans, including Senator ABRAHAM, Senator DEWINE and others. In fact, in June, Jack Kemp urged congressional leaders to adopt this sponsorship formula. He wrote, "The Senate bill reasonably requires that sponsors have income equal to 125 percent of the Federal poverty level," and he called on Congress to oppose sponsorship formulas that imposed stiffer burdens on sponsorship.

The 125 percent requirement ensures that very few sponsors will be pushed onto welfare. Virtually all welfare programs require 100 percent of poverty or less in order for applicants to qualify. Those with incomes above 125 percent of the poverty level qualify for very few programs. And where they do, they normally qualify for only a few dollars of help.

The price tag that the Republican bill placed on family unity was unnecessary, harsh, and punitive. It was intended as a backdoor reduction in legal, family immigration. The Republican wealth test for sponsorship was 140 percent of the poverty level for those sponsoring their spouses or young children and 200 percent for those sponsoring their parents, adult children, or brothers and sisters. The Republican plan was anti-family. It said to working Americans that their jobs were not good enough to qualify them for sponsorship. This draconian, class-based proposal would have caused unfair hardship for working American families, and was rightly rejected as part of this bipartisan agreement.

In addition, this agreement contains three other worthwhile improvements. It provides assistance to immigrants who are victims of domestic violence. It continues assistance under the Ryan White Act for immigrants with HIV infection or battling AIDS. It allows nonprofit organizations, such as Catholic Charities, church social service programs, or community-based organizations to continue to assist communities with Government funds, without having to check the citizenship and green cards of everyone who walks in their doors.

Rather than making harsh welfare reforms even harsher for legal immigrants, this bipartisan agreement provides modest but needed improvements over those reforms for battered immigrants and for charities and other nonprofit organizations that are a lifeline to immigrant communities.

As President Kennedy wrote in his book, "A Nation of Immigrants":

> Immigration policy should be generous; it should be fair, it should be flexible. With such a policy we can turn to the world, and to our own past, with clean hands and a clear conscience. Such a policy would be but a reaffirmation of old principles. It would be an expression of our agreement with George Washington that "The bosom of America is open to receive not only the opulent and respectable stranger, but the oppressed and persecuted of all nations and religions; whom we shall welcome to a participation of all our rights and privileges, if by decency and propriety of conduct they appear to merit the enjoyment."

This bipartisan agreement is largely consistent with that goal. It takes a number of worthwhile steps to deal with the problems of illegal immigration, although much more significant steps could have been taken and should have been taken to deal with this serious problem. Equally important, this bill keeps the Nation's doors open, with

reasonable limitation, for those who come here as legal immigrants and contribute to a stronger and better America, as they have done throughout the two centuries of our history. I commend all of those who have helped to develop this proposal and have it included in the underlying document.

I urge my colleagues to support this legislation.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield 5 minutes to the Senator from South Dakota and 5 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

FEDERAL AVIATION REAUTHORIZATION

Mr. PRESSLER. Mr. President, it is critically important we finish the Federal aviation reauthorization legislation before the Senate adjourns. This legislation is vital to air service in my home State of South Dakota. For example, in my State of South Dakota, the FAA bill we are struggling to bring to closure doubles the size of the Essential Air Service Program to $50 million. This is particularly important to Brookings, Mitchell, and Yankton, SD. The Essential Air Service Program provides the only air service link these communities have to the national air service network.

The FAA legislation also will make more Airport Improvement Program [AIP] funds available to small airports for safety-related repairs and improvements. For instance, under this legislation, the Sioux Falls Airport will receive an annual increase in AIP funds of at least $227,000. The Rapid City Airport will receive an annual increase of at least $170,000. The same is true for the Aberdeen Regional Airport and the Pierre Regional Airport which each will receive an increase in AIP funds of at least $100,000. AIP funds are the only source of money for safety-related repairs at these airports and that is one key reason why this legislation is so important to air service in my State.

In addition, the FAA legislation addresses a widely held concern in my home State that air fares to small cities are too expensive. The bill directs the Secretary of Transportation to study why city air fares are so exorbitant and recommend what measures can be taken to make air travel to small cities more affordable.

The FAA legislation contains many very important aviation safety measures. One such measure will ensure the flight service station in our capital city of Pierre will remain open. Constituents traveling to and from Pierre were very concerned that closing the flight service station would compromise safety at the Pierre Regional Airport. I am very pleased the provision I added to this legislation addresses this concern.

Mr. President, there is a continuing struggle over one provision in this vitally important aviation safety and security legislation which is preventing it from being considered by the Senate. I commend the leadership on both sides of the aisle for trying to bring the FAA bill to closure. We cannot leave this city without finishing the FAA bill. It is one of the most important pieces of legislation in this Congress. The air service provisions in this legislation also make it one of the most important pieces of economic development legislation for South Dakota of this or any Congress.

Mr. President, as chairman of the conference on H.R. 3539, The Federal Aviation Authorization Act of 1996, I again rise to urge my colleagues to permit the Senate to proceed to consideration of the conference report for this critically important legislation. H.R. 3539 is a bipartisan, omnibus aviation bill which reauthorizes the Airport Improvement Program [AIP], reforms the Federal Aviation Administration, improves aviation safety and security, and provides long overdue assistance to the families of victims of aviation disasters.

Mr. President, it is absolutely imperative that the Senate approves this conference report before we adjourn and that the President signs the report. Friday, the House met its responsibility to the American traveling public by passing this legislation. If the Senate fails to approve this excellent legislation which represents another significant legislative accomplishment for this body, we will have failed to meet our responsibility to the American traveling public. For example, if we do not approve this report, airports across the country will not receive Federal funding which is vital for safety-related repairs and other improvements.

If we fail to pass this report, the Senate will have neglected our responsibility to ensure the United States maintains the safest and most secure aviation system in the world. For example, the conference report implements many of the aviation security recommendations made by the White House Commission on Aviation Safety and Security earlier this month.

Mr. President, there are dozens of important provisions in this legislation, but I would like to focus my remarks on four main areas.

First, aviation safety. Air transportation in this country is safe. Indeed, it remains the safest form of travel. However, we can and we must do more. This legislation facilitates the replacement of outdated air traffic control equipment. It puts in place a mechanism to evaluate FAA's long-term funding which is critically important at a time in which enplanements continue to increase yet Federal budget constraints limit the ability of the FAA to respond to the increased needs of our aviation system. Additionally, this legislation eliminates the FAA's dual mandate. It ensures the FAA finally focuses solely on aviation safety.

A second area I want to highlight is aviation security. This conference report contains numerous provisions designed to improve security at our Nation's airlines and airports. The measure before us today incorporates many of the recommendations of the White House Commission on Aviation Safety and Security of which I am a member. In fact, this legislation provides statutory authority requested by the President to implement several of the Commission's recommendations. Passage of this bill will improve aviation security by: Speeding deployment of the latest explosive detection devices; enhancing passenger screening processes; requiring criminal history record checks on screeners; requiring regular joint threat assessments; and encouraging other innovative procedures to improve overall aviation security such as automated passenger profiling.

The third area I wish to highlight is how this legislation will help small community air service and small airports. The legislation before us today reauthorizes the Essential Air Service program at the level of $50 million. This program is vital to States such as South Dakota. By adjusting the formula for Airport Improvement Program [AIP] funds, we would now ensure that all airports receive virtually all their entitlement funds in addition to being eligible for discretionary funds. This is great news for small airports which in recent years have received far less than their full and fair share of these funds.

Also, the legislation directs the Secretary of Transportation to conduct a comprehensive study on rural air service and fares. For too long, small communities have been forced to endure higher fares as a result of inadequate competition. The Department of Transportation will now look into this issue as a result of this conference report. This follows on the important work that I instructed the General Accounting Office to initiate last year.

Mr. President, the final area I wish to highlight is the compassionate measures this legislation would put in place for the families of victims of aviation disasters. Last week, I chaired a hearing of the Commerce Committee in which the families of victims of five aviation tragedies courageously told the committee of their harrowing experiences. I promised those witnesses, as well as other families of victims in the room, that Congress finally would act this year to put in place measures to improve the treatment families receive, protect their privacy in a time of

grief, ensure they receive timely and accurate information, and address a number of other concerns they eloquently voiced to the committee. The family advocacy and assistance provisions in this conference report are supported by these families and I hope the Senate will help me keep my promise to families who already have suffered enough. I hope we do not disappoint them.

Mr. President, despite all the vitally important aviation safety and security provisions in this legislation, I understand some members are troubled by one provision. I refer to the amendment the ranking member of the Commerce Committee, Senator HOLLINGS, offered in conference to correct a technical error in the Interstate Commerce Commission Termination Act of 1995. The Hollings amendment, which I strongly support, is not the partisan provision some have claimed it to be. All five Senate conferees—Senator MCCAIN, Senator STEVENS, Senator HOLLINGS, Senator FORD, and I—voted in favor of that amendment because, despite all the rhetoric, it is simply a technical correction which fairness dictates the Congress make.

I would like to briefly discuss the rhetoric that has clouded the Hollings amendment issue and, regrettably, has transformed the Hollings amendment into an issue which some now feel is more important than enhancing aviation safety and security. When the House debated the conference report, I heard a number of Members make blanket statements that the Hollings amendment is not truly a technical correction. Those same Members claimed their statements were based on their purported knowledge of the Senate's intent when it considered and overwhelmingly passed the ICC Termination Act. With all due respect to those Members of the House, I authorized the ICC Termination Act and can unequivocally say they are dead wrong. The Hollings amendment is nothing more than a technical correction. In the ICC legislation, the Senate never intended to strip Federal Express or any person of rights without the benefit of a hearing, debate, or even discussion. Now, fairness dictates we correct that inadvertent error. That is precisely what the Hollings amendment does. It is exactly why I supported it in conference. It is why I continue to strongly support it.

Today's debate should be about this truly historic piece of aviation legislation which reflects the outstanding work Congress does when it proceeds on a bipartisan basis. Unfortunately, I fear the debate regrettably will focus on the Hollings amendment which is contained in just 5 lines of a 189-page bill. All too often, Congress is criticized for losing sight of the big picture. Today, if this debate proceeds as I fear it may, the Senate will reinforce that perception.

Some members of the American public watching this debate from the gallery of a C-SPAN will understandably ask themselves "has the Senate lost sight of the goal of ensuring the safety and security of air travel in the United States?" Others will ask themselves "has the Senate forgotten the importance of safety-related repairs and other improvements of our Nation's airports?" And the family members of aviation disaster victims will correctly ask "why has the Senate failed to listen to our pleas to put in place measures to improve the treatment of families of future aviation disaster victims?"

And, Mr. President, each and every one of these questions will be perfectly valid. I would hate to be in the position of having to answer them.

We owe it to the American public to preempt these questions by resisting the invitation to lose sight of the bigger picture. Today, we are trying to pass a historic aviation safety and security bill. Let's move beyond 5 lines in a 189-page bill. Let's get the job done for the American public. I urge that the Senate immediately take up for consideration the conference report to accompany H.R. 3539.

Mr. President, earlier today I wrote the Vice President of the United States urging him to support swift and final passage of the conference report accompanying H.R. 3539. In that letter, I reminded the Vice President that two of the most important aviation security recommendations made by the White House Commission on Aviation Safety and Security—deployment of explosive detection devices at our Nation's airports and criminal background checks for baggage screeners—cannot be implemented without the statutory authorization to do so provided in this legislation. These important recommendations to enhance the security of air travel in the United States cannot wait until we reconvene next year. We must pass those two provisions before we adjourn. We must pass this legislation before we adjourn. I ask unanimous consent to have that letter printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
Washington, September 30, 1996.

Hon. ALBERT GORE, Jr.,
Vice President of the United States,
Washington, DC.

DEAR MR. VICE PRESIDENT: As the Senate Majority Leader's designee to the White House Commission on Aviation Safety and Security, I am writing to urge you to actively support final passage of the Conference Report accompanying H.R. 3539, the Federal Aviation Reauthorization Act of 1996. As you know, H.R. 3539 is a bipartisan, omnibus aviation safety and security bill. It is vitally important the Conference Report passes the Senate prior to adjournment.

Based on a meeting with your staff, I understand several of the Commission's recommendations require statutory authority to be undertaken. Without such authorization, I was told these recommendations to enhance our nation's aviation security cannot be implemented. Specifically, I am referring to statutory authority to deploy government purchased explosive detection devices in our nation's airports and to conduct criminal background checks on baggage screeners.

The Conference Report to H.R. 3539 responds to the Administration's request for statutory authority in these two areas. Section 305(b) authorizes the deployment of explosive detection devices and Section 304 permits criminal background checks on baggage screeners. In addition, the legislation embraces a number of other recommendations made by the Commission which enjoy bipartisan support such as comprehensive measures to improve the treatment of the families of aviation disaster victims.

Mr. Vice President, I hope you agree the Senate must approve the Conference Report accompanying H.R. 3539 before it adjourns. Otherwise, according to your staff, two of the most important recommendations of the Commission—interim deployment of government purchased explosive detection devices and criminal background checks for baggage screeners—cannot be implemented. We must not let that happen.

I look forward to working with you to ensure this critically important aviation safety and security legislation passes the Senate as soon as possible.

Sincerely,

LARRY PRESSLER,
Chairman.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. JEFFORDS. Mr. President, I earlier spoke about the problems with this bill actually resulting in hundreds, if not thousands, of individuals actually being fired from their jobs.

I would like to turn to some good news this time about the bill about the District of Columbia. It includes important provisions for the District of Columbia. In addition to provisions on school facilities, the conference agreement improves the ability of public charter schools to operate in the city.

The condition of school facilities in the District of Columbia has reached a crisis stage. Those who live here know that. It has been front-page news in the papers for weeks.

As of Friday, four public schools still remained closed due to fire code violations, displacing almost 2,000 students. A breakdown in oversight and accountability has occurred at the expense of the children in this city.

Strong and immediate action must be taken to reverse this situation. This

bill does it. Children in the District of Columbia must be able to attend public schools that are safe and free of facility deficiencies that lead to their closure. The General Services Administration estimates the cost of repairs at $88.6 million for severe facility deficiencies in fiscal year 1997. The total deficiencies are about $2 billion.

As estimated, $40.7 million will be available from existing appropriations and borrowing. Additional resources are needed to prevent unsafe conditions and school closures. But these resources cannot be provided to a school system which has demonstrated an inability to effectively manage its resources.

I have, therefore, sought inclusion of a provision in the omnibus bill to provide resources to combat facility deficiencies while placing responsibility for the expenditure of funds with the DC Financial Control Board, not the school system. In addition, the General Services Administration will provide program management services for the repairs and capital improvements.

The provision makes available an estimated $52.7 million to the control board to carry out a program of facility repairs and capital improvements. The bill makes these funds by reallocating $40.7 million to the Authority from operations funds appropriated, and capital financing authority provided, in previous appropriations acts.

The provision also makes available an estimated $12 million from the privatization of both the Student Loan Marketing Association, fondly known as Sallie Mae, and the College Construction Loan Insurance Association, commonly known as Connie Lee, as the Senator from Connecticut, who is on the floor, is well aware. We acted at his request.

The availability of these resources means that immediate action will be taken to repair facility deficiencies in DC schools. In addition, the Congress will closely monitor the progress of facility repairs and will consider providing additional funds in a supplemental appropriation during the spring of fiscal year 1997. This comes from my consultation with the chairman of the House Appropriations Committee. In the interim, the control board will be able to reprogram funds for facility repairs, if necessary.

Mr. President, I appreciate the concern that some of my colleagues, no doubt, have about any increase in Federal assistance for the District of Columbia, given its dismal track record in managing resources. However, I remind my colleagues that we have previously taken strong action to prevent future mismanagement by establishing the control board and the chief financial officer.

The additional funds provided for improving school facilities, as well as previous funds provided, will be fully managed by the control board, not the school system nor the District of Columbia government. Moreover, I must also point out that we have an obligation to the well-being of the children in the Nation's Capital. We have accepted that responsibility. This obligation includes the condition of the schools they attend.

I thank Chairman HATFIELD for including a provision for the District of Columbia in the conference agreement, given that the regular appropriations bill for the District has already been signed into law. He recognizes, as I do, and as Chairman LIVINGSTON does, the obligation of the Congress to the children of the Nation's Capital. We have a joinder on that understanding and have acted quickly and decisively to make sure what happened this year does not happen next year. I would also like to thank the ranking minority member on the Subcommittee on the District of Columbia, Senator KOHL, for working with me to include this provision.

This is only a start. There is much more we need to do for the kids in this city. As long as I am in the Senate, I assure you I am going to do everything I can to make this a city we can be proud of, especially with respect to education.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

WELFARE REFORM

Mr. DODD. Mr. President, several weeks ago, during the consideration of the welfare reform bill, I came to the floor and expressed my views on that legislation. At the time, I characterized the bill as an unconscionable retreat from our Nation's more than 60-year commitment to America's poorest children.

Unfortunately, I still believe that to be the case today. In the past 60 years, while we have disagreed and quarreled in this country on some issues, all Americans, regardless of party or ideology, understood that it was in our national interest to protect the most innocent and defenseless of our people—the 9 million children who collect Aid to Families with Dependent Children. Whether you are from Connecticut, California, Maine or Mississippi, if all else fails, your National Government would not rip the safety net from underneath a poor child's feet.

With the passage of the welfare reform bill, I believe we have abandoned that 60-year-old commitment. While the welfare reform legislation may have been, in my view, a retreat, it is by no means a surrender. A surrender would indicate that we are throwing up our arms because the struggle is over. A retreat, on the other hand, means it is a temporary setback, not the end of the battle. Unfortunately, the battle is not going to be fought in the remaining hours of the 104th Congress. But I pledge to my colleagues here that one of my first priorities in the 105th Congress will be to propose legislation that will correct what I consider to be major flaws in the welfare reform bill.

Already I have instructed the General Accounting Office to begin assessing the effect of the welfare reform bill so that Congress can closely monitor its impact on America's welfare system and particularly on our Nation's children.

While I disagree with many aspects of the welfare reform legislation, its passage brings us to a new point, I believe, in how we deal with poverty and social issues in this country. We are now waging this battle on a new front and with a new set of parameters. The blame game on welfare is over. The time has come to move beyond divisive rhetoric and to find innovative ways to make this welfare legislation work for America's poorest children. Simply passing the problem on to the States and our local communities—as if they have all the answers and all of the resources to grapple with this problem—is not a solution. It is, as President Clinton has often stated, only the beginning. There is still significant work to be done.

First and foremost, Mr. President, we must redouble our efforts to create good-paying jobs for welfare recipients striving to end the cycle of poverty and dependency. The bill that this Senate and this Congress passed, while professing to move people from welfare to work—a concept that I wholeheartedly endorse—failed to provide the funds needed to reach that goal. In fact, the Congressional Budget Office estimates that the bill is $12 billion short of funds needed to meet the bill's stringent requirements.

Consider, for example, that if today every new job in New York City was to be filled by a current welfare recipient, it would take 21 years for all these people to be absorbed into the city's economy. Does any Member of this body really think that millions of jobs offering good wages with health benefits are suddenly going to appear out of thin air? Absolutely not, particularly if we fail to focus on job creation and providing greater funds for assistance, training, and education, that give welfare recipients, in our cities and our States, the chance to achieve the self-sufficiency this bill calls for.

As important as job creation is, Mr. President, to the success of welfare reform, it will mean nothing if we do not allocate significant resources to child care. While I was pleased to see that more funds were provided for child care in the legislation than was originally proposed, more is needed on this front.

If this bill is to be successful in permanently getting people off welfare, as well as helping those already in the job

market, working parents must be sure that their children will be well taken care of. The Congressional Budget Office again estimates that there is close to a $1.4 billion shortfall in the child care funds for the working poor and people in transition from welfare to work. This discrepancy has to be addressed in the next Congress if this legislation is going to succeed. So, too, must the provision allowing mothers with children between the ages of 6 and 10 to be sanctioned and potentially lose benefits if they cannot find or afford child care.

Remember, we tried to strike that provision, but we lost. And so today, if you have children between the ages of 6 and 10, and you are out trying to find work, the fact that you cannot find child care and cannot marshal the adequate resources could cause you to lose all your benefits. Again, I do not understand the wisdom of that. What happens to 6- and 7- and 8- and 9-year-olds and 10-year-olds in this situation? If their mothers cannot find child care, who is to take care of them? What happens to these children? And yet, that is not provided for in the legislation. My hope would be that this is one of the provisions we would try and correct in the next Congress.

At the absolute least, we, as a nation, should be able to guarantee to children under the age of 10 that they will not be left home alone, to fend for themselves while their parents are out trying to make the difficult adjustment from welfare to work. However, it seems that when it comes to the discussion of welfare reform in this Chamber, there seems to be a constant fundamental disconnect between rhetoric and reality. The fact is, we simply cannot ask welfare recipients, struggling to get by, struggling to make ends meet, struggling to raise a family, to keep a job if Congress does not provide adequate child care.

Of course, the issue of child care rubs both ways, for both working parents and, of course, their young children. Obviously, child care is about more than just helping working parents. It is about ensuring that our Nation's poor children will not be neglected.

When we debated the welfare reform bill, we came just short of the necessary votes of providing vouchers for children whose families reach the 5-year limit. To my colleague's credit, from the State of Louisiana, Senator BREAUX, who tried to include these vouchers so that at the end of the 5 years—whatever else you do to the parents, you do not visit that problem on the children. We lost that vote on a narrow decision here in the Senate.

Under the welfare bill which became law, States are prohibited—they are prohibited—from even providing vouchers for children from block grant funds. That we punish children because of the actions of their parents, no matter how irresponsible they may be, is, in my view, abhorrent. By not providing adequate protections for poor children, we risk doing just that.

Additionally, Mr. President, the next Congress must work to address issues of concern for food stamp recipients and legal immigrants. These food stamp cuts will be disproportionately borne by families with children. In fact, these families will absorb two-thirds of these cutbacks.

Also, as we speak, Mr. President, legal immigrants are being cut off from their food stamp benefits and SSI insurance as well. Many have no idea what is about to happen to them. The poor, the elderly, the disabled will simply lack the means to care for themselves, and, what is worse, they have no grace period to prepare for these changes.

Mr. President, to give you an idea of the practical impact of these provisions, I want to bring to my colleagues' attention the plight of some 2,000 Cambodians, legal immigrants—legal immigrants—who live in my home State of Connecticut. Of those 2,000 Cambodians, at least 250 of them suffer from concentration camp syndrome, from living under the murderous Khmer Rouge. Due to this legislation, they will lose access to SSI, food stamps, and health care benefits. What is worse, many of them do not meet the criteria for naturalization. The local Khmer health advocates estimate that people may well die as a result of this elimination of care.

Mr. President, is this how we treat the downtrodden and vulnerable legal immigrants we brought to this country because of the circumstances they faced in Cambodia? The number may not seem high, only 250 out of 2,000, but these are people we brought to America because we wanted to give them a better chance and to get away from the murderous regime of the Khmer Rouge. And now we are going to cut them off from SSI benefits and health care? I do not understand the logic of that.

These people played by the rules. In many cases, we brought them here. They pay taxes. And yet we voted to cut off essential care to these people, as well as millions of others. Who would have imagined that those Cambodians who bravely fled their nation's killing fields would now find themselves being told by the greatest democracy the world has ever known, "We're not going to help you out on basic health care needs."

Mr. President, these are mean-spirited provisions masquerading as budget cuts. Nearly every Member of this body is a descendant of immigrants. By failing to correct the flaws in this bill, we risk repudiating America's legacy of immigration which has defined our Nation for more than 200 years.

Let me also say, Mr. President, that one of the most important aspects of this bill is our constant vigilance in monitoring the impact of this legislation. Language in the welfare reform bill allows Congress to closely study how the bill is implemented. This body must ensure that the States remain accountable to the spirit of this legislation.

For example, recent press reports indicate that States will receive credit for moving welfare recipients to work simply by dropping them from welfare rolls. That is not reform. That is abandonment of our national priorities. And Congress must ensure that it does not happen.

That is why I have already talked to the General Accounting Office, as I mentioned at the outset of these remarks, about monitoring the major areas of this legislation. I will ask the General Accounting Office to examine the impact of the reductions, terminations of cash benefits, and food assistance on the well-being of children.

Also, Mr. President, I believe we need to look closely at the financial impact of this legislation on counties and cities who, under the welfare reform bill, bear new and more difficult burdens. We must be sure that we are not giving them unfunded mandates that they cannot afford to carry out. We must also monitor how States plan to implement changes in the Food Stamp Program that are allowed under this new legislation.

Additionally, Mr. President, I will ask the General Accounting Office to determine if adequate resources are being devoted to child care for the working poor and parents leaving welfare for work. These are just a few of the issues on which we as a nation, I think, are entering unchartered territory. In fact, a recent article in the New York Times notes that, not only is data "skimpy" on the impact of welfare reform measures, but also research results are largely "ambiguous, contradictory, confusing, or nonexistent," to quote that article.

This lack of empirical data underscores the need for this coming Congress to keep a close eye on how welfare policies are being implemented across the country. It is my hope, Mr. President, that when we reconvene in January we will address some of these critically important questions.

For those of us who both opposed and supported this legislation, we have a solemn responsibility to move beyond rhetoric and ensure that we fulfill the mandate to move Americans from welfare to work, from dependency to self-sufficiency, and from hopelessness to opportunity.

My hope is, Mr. President, the coming Congress will focus a lot of its energy and time on these questions so that we might correct some of the shortcomings of the welfare reform bill that was passed in this Congress.

Mr. President, I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I yield myself up to 5 minutes from the leader's time on this side.

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

OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. FORD. Mr. President, I want to express my disappointment that the banking provisions of the omnibus appropriations bill currently before us fails to include a very important licensing provision for bank insurance sales. Over the past few weeks, I have heard from hundreds of insurance agents in Kentucky who believe it is only fair that all professionals who sell insurance, regardless of what institution one may be affiliated with, be licensed by the appropriate State agency. Regretfully, in the push to leave town and adjourn for the year, the negotiators failed to include this important measure in the banking provisions of the appropriations legislation.

The State licensing question recognizes one simple straightforward issue—the commonsense notion that anyone selling insurance should be licensed. No one questions the fact that lawyers, doctors, real estate agents, and other professionals must pass examinations and be licensed by the appropriate State authority. Insurance agents are professionals, whether they work for a bank or an insurance agency. I see no distinction.

Mr. President, the licensing standard would establish an important safeguard to ensure fair competition in the insurance marketplace. Allowing bankers or any other professional to escape licensing standards represents an unfair advantage over insurance professionals who have diligently met such standards for years. Anyone selling insurance to consumers, bankers and agents alike, should be sanctioned by the proper State authority.

Perhaps more importantly, Mr. President, this issue is about more than a level playing field for insurance agents. It is about confidence and trust. By requiring licensing for insurance sales, Congress will reassure American consumers as they seek insurance protection for their families, homes, automobiles, and their lives, that their agent has a license, meets State education requirements, and all appropriate qualifications. This is no small consideration. I believe American consumers rely on and trust the individuals they consult for financial decisions, whether that individual is an insurance agent, lawyer, or a realtor. We must ensure that minimal standards are met in order to preserve this important confidence.

Mr. President, it is my sincere hope that Congress will address this important issue next year when we return. I believe it is about common sense and fairness. However, above all, this issue represents sound, public policy and would safeguard the trust consumers place in insurance professionals. Again I say, Mr. President, I hope that Congress will take action soon after we return next year to ensure this trust continues.

I yield the floor and 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. BRYAN. 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. BRYAN. I yield myself 7 minutes.

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

Mr. BRYAN. I rise today to bring to my colleagues' attention the enactment of a vital piece of consumer legislation. In fact, I believe that the Fair Credit Reform Act of 1996, which is incorporated in the continuing resolution that we are about to vote upon, marks the most significant piece of consumer legislation enacted in this Congress.

This legislation will improve the accuracy of credit reports and it will reduce the frustration of tens of thousands of Americans as they experience difficulties with inaccurate information in their credit reports and the consequent difficulties of getting that inaccurate information removed.

Mr. President, it has been more than a quarter of a century since the original Fair Credit Reporting Act was enacted by the Congress. While the credit reporting industry has initiated a number of improvements voluntarily, the time has come to update the law. Senator BOND and I have been working on problems that individuals experienced with correcting inaccuracies in their credit files for more than 5 years. Errors in consumer credit reports have been the No. 1 item of complaint at the Federal Trade Commission and States attorneys general have experienced similar levels of complaint.

That is why this legislation is so vitally needed. Credit financing has become a way of life for us in America. It is an integral part of our economy and it is hard to imagine our lives without it. Without the credit reporting system consumers would not have the easy access to credit that they now enjoy and America's economy would suffer as a consequence.

The credit reporting industry keeps files on more than 190 million Americans, sells more than 1.5 million credit reports each and every day, and makes over 2 billion new entries each and every month. With this kind of overwhelming data flow there are bound to be mistakes in the system. Most of the time, errors are unintentional but they can be very damaging. While we expect mistakes when 2 billion bits of information are entered into a credit reporting system every month, what we should not tolerate are companies that show little regard for the accuracy of the information they provide to credit bureaus, and we should not accept the frustrations that consumers experience in trying to get erroneous information removed from their records.

Mr. President, even as I speak, people are being turned down for student loans, car loans and mortgages. People are being turned down for jobs and for promotions all because of faulty information in their credit reports. While we will never eliminate human error or computer error altogether, I believe we can and should do a substantially better job. Over the past 5 years I have been working on this, the Senate has held extensive hearings on this topic. We heard that the credit reporting system, in a majority of cases, works extremely well and benefits American consumers by providing them with ready access to credit. However, we also heard from far too many consumers who endured frustrating experiences in getting errors removed from their credit files.

I remember a hearing that we had in Nevada in which two cases come to mind. One involved a Bill and Barbara Kincade from a small town in northern Nevada, McDermitt, who corrected a mistake on their credit report that arose when their bank sold their mortgage to another institution. They believed that they had corrected that information. Three years later, they discovered that the erroneous entry had reappeared on their credit history when they were turned down for a loan to finance a satellite dish. Our legislation would prohibit the reinsertion of deleted information without notifying the consumer first.

I also remember the story of Mary Lou Mobley who almost had to drop out of graduate school after she was denied a school loan because her credit report reflected that she was married to a man from Arizona with numerous financial defaults. The problem, Mr. President, is that Mary Lou had never been married, never been to Arizona. Although Mary Lou had an excellent credit history other than this erroneous entry, she was required to obtain a cosigner on a student loan and pay a significantly higher interest rate in order to process her loan. Four years later, after graduating from school, she was victimized once again by the same erroneous information and denied a car loan. These kind of stories demonstrate the need to improve our system of getting errors fixed.

There are two provisions in this legislation which are especially important

to fix the gaps in the current system. First, the bill creates a consumer friendly process for removing mistakes from your file. Anyone who has tried to correct a mistake in their credit history knows firsthand the immense frustration it causes.

The consumer has to prove the information in his or her report is erroneous. This can often be exceedingly time consuming, costly and, in some cases, nearly impossible to prove the negative; namely, that the individual whose credit history is erroneously inserted in the applicant file for credit is not that same individual. Consumers should not be burdened with these costs and these frustrations.

The legislation, which we will adopt in a few hours, changes the burden of proof from the consumer to the credit reporting agency when the consumer notifies the credit reporting agency that the information reportedly contained in his or her file is erroneous. Once that notice is given to the reporting agency, the reporting agency has 30 days to verify the information. If the reporting agency is unable to verify the information, the erroneous information must be removed.

The second critical feature of this bill deals with those companies that furnish information to credit bureaus. The information in the credit bureau database is only as good as the data sent in by banks, retailers, and other furnishers of credit information. This legislation makes these furnishers of information liable if they fail to correct mistakes after consumers brought such mistakes to their attention.

While none of us want to discourage companies from supplying accurate information to credit bureaus, it is equally important to hold them accountable for the accuracy of the data they supply. This legislation will provide companies with the necessary incentives to improve their reporting and, thus, result in fewer mistakes.

Mr. President, I want to say a word about one of my colleagues with whom I have worked on this issue for the past 5 years—Senator BOND. He and I have worked closely on this legislation. With his support and that of his staff, we have been able to progress to the point where in a few short hours, this legislation will have passed the Congress and on its way to the President for signature.

Interested parties have very strong feelings about this legislation. Senator BOND and I have spent countless hours trying to bridge these differences. And I greatly appreciate his persistence and determination in working toward reform of the credit reporting system.

Let me also say, as every one of my colleagues know, major legislation such as this is not enacted without the strong and continuous support of very effective staff backup. I want to cite one of my staff members in particular, and mention some others before concluding my comments.

Andy Vermilye has given literally hundreds and hundreds of hours, a frustrating experience as progress was offset by other problems that surfaced as this legislation was processed. In the 103d Congress, we had this legislation cleared in both Houses. A change was made at the last minute, and because it was the concluding day or two of the session, one colleague was able to hold up this legislation and literally wipe out the work of Senator BOND and our respective staffs, but particularly my legislative director, Andy Vermilye.

So back again we came, and now we are on the threshold of victory. The record on this legislation should reflect that without Andy Vermilye's patience and persistence, this legislation would not have occurred.

Other staffers need to be mentioned: Kris Siglin, Maggie Fisher, and Mark Kaufman, who have gone on to greener pastures, but labored mightily in behalf of the cause. John Kamart, Susan McMillan, Doug Nappi, and Kimberly Cobb worked long and hard on this bill. Amy Friend and David Medine were instrumental in getting this passed. Michele Meier, Ed Merwinski, Emmitt Carlton, Mike MacInney, Tim Jenkins, and Barry Connely deserve recognition for their contributions on this bill as well because all sectors—both the business community and consumer interests —are involved in making this legislation a reality.

Mr. President, this legislation marks an important event for consumers in our country. We are making significant improvements in the credit reporting system, and the lives of thousands of Americans who have encountered difficulty in their credit reports will be made easier as a result of the changes made by this legislation.

Mr. President, I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

SENATOR HATFIELD'S STAFF

Mr. HATFIELD. Mr. President, I would like at this time to take a few moments to reflect on my leaving the Senate, and to comment upon the extraordinary staff that I have enjoyed over the years, the tremendous work that they do every day, and the staffs for all of the Senators I am sure would mete some of the same comments and earn some of the same accolades that I would like to extend to my staff.

I have always said that I believed that the soul of my office is really the casework where you can make a difference in the life of some individual—it may be a Social Security check that is fouled up; it may be an immigration problem in which a family can be reunited. We all have similar work in this category. But I really think that has probably more bridge-building impact upon people thinking and knowing that their Government does care and that they have compassion.

I would like to thank particularly Melanie Curtis, Chris Tye, Chris Brown, and Lisa White. They have served the people of my State in an extraordinarily capable and compassionate fashion.

My Washington office has been kept running by a dedicated group of administrative professionals led by my office manager, Lynn Baker, who, like many in this Senate, is raising a family as a single parent and juggling her workload in order to meet both her duties to the office and, more especially, to her young son. She is assisted by a dedicated group of Senate professionals as well.

I am sure that no Senator fully knows all the details that go into the creating of a daily schedule. We all carry these little cards around. We all know, too, that situations change during the day. Brenda Hart has been, for the last 5 years, my chief scheduler. She has been a confidant, she has been a political operative, and she has been the cheerleader of our office by her extraordinary talent of baking. She keeps that bakery going at her home and brings the results to the office to share, whether it is late at night or whether it is during the day. I think she is the first to arrive in my office in the morning and the last to leave. I can't believe that an office could run more smoothly than she directs. One of the newsmen the other day dubbed her the den mother for all the people in my office. I refer to her as mother superior, as she takes a very direct role by not just handing me a card, but she helps direct me.

Of course, the reason we are here is to pass legislation, and there is no legislative staff I feel that is as skilled mine. I take great pride in all parts of my office, especially the legislative staff.

For some 6 years a young lady by the name of Sue Hildick has been my legislative director. She became my legislative director at the age of 26. I doubt that history will show that a legislative director of an office has started that undertaking being so young, but she has done it as a mature professional with great judgment, along with all of her directing and coordinating of legislative staff.

Of the 14 members of my policy team, 11 started in my office as interns, including my chief of staff, Steve Nousen.

Mr. President, we all know that offices have to have a tight hand. They have to have an understanding hand, and I believe that Steve Nousen has performed that duty in such an extraordinary way in terms of efficiency and keeping a happy, well-run operation. I suppose I would say that Steve

had a very good beginning. He had professional training as a schoolteacher and as a civics teacher in a high school in a small community in my State. There in small communities you know everyone. Everyone knows you. They know your strengths. They know your weaknesses and yet you have to be a good neighbor especially in school because parents in that type of school take a very active interest. As a consequence, they are watching you as well to inspire, teach, and to set the example before their children. Steve Nousen, as I say, has a great and wonderful record as my chief of staff, has my total confidence.

There are three members of my staff as part of my legislative team: Doug Pahl, Karen Matson, and Kristi Gaines. They earned their law degree while going to night school and carrying a full load during the day as staff members. I am proud of that record. Ken Hart, my current press secretary, started as an intern and finished his master's degree program at American University while serving as a staff assistant. I come from an academia background, and, of course, there is nothing that gives me more satisfaction than watching my staff grow in maturity and academic accomplishment. We have been supportive of their efforts. These are a few of them that I refer to, not every single person, because that would take us into a time beyond my allocation at this moment.

I have praised my staff on the Appropriations Committee many times because each bill we have keyed in upon the performance of the staff in charge, but let me again refer to the chief of staff of the Appropriations Committee. I have to say that he came as an intern from the divinity school at Duke University. He was headed for the Methodist ministry. I feel sort of a guilt complex here at the moment because in coming as an intern he never left. So the Methodists have suffered as a result. I have always said, being ecumenical, my previous staff director came from the Princeton seminary and never returned. I think they are doing the Lord's work when they are involved in public service, and I think we will know they affected the kingdom in a very special way at some point in the future.

Keith Kennedy came, as I say, as an intern and almost 25 years later we have reached this point of our relationship. Again, I would have to have volumes to describe the history, the experiences we have shared together. But I like to think that because we have really a comparatively low turnover, probably the least turnover—I know a few years ago there was a survey done, and we had the least turnover of any staff in the Senate. I would think the longevity of that staff adds to their abilities and the quality of their service to the citizens of this country.

I just have to say I have been blessed by the quality of the people who have served and are the working relationships that I have enjoyed. I have learned a great deal from my staff. I have learned that young people are so enthusiastic. They have so much trust and faith in the system, this great political system of ours and they are determined to make it work, and so individually and corporately I take my hat off to one of the great reasons why I have been able to stay here for 30 years and have achieved a certain degree of success in a certain number of fields.

Mr. President, I wish to take this opportunity to add to the remarks that I just made to further commend the excellent staff that we are fortunate to have here in Congress.

Over the course of the last week, I have had the opportunity to see the Appropriations process at work like few others do. Working around the clock, our negotiations with the House of Representatives and the White House was an all consuming task. Mr. Panetta and OMB Director Raines ably represented the priorities of the White House while Congressmen LIVINGSTON and OBEY did the same for the House.

I wish to highlight the efforts of three people who are the mechanics of this effort. The people who ensure that the decisions that are made are translated into words that are properly included in the bill and report and do what is intended they do.

John Mikel and Dennis Kedzior of the House Appropriations Committee and Jack Conway of the Senate Appropriations Committee are the mechanics that have so developed the confidence of both bodies that we can confidently vote on this large piece of legislation knowing that it is technically correct and properly drafted.

With over 60 years of combined service to the Federal Government, their commitment to the process and making government a better place serves as an example for all who work here.

Mr. President, I suggest the absence of a quorum to be—first of all, Mr. President, what is the time factor remaining?

The PRESIDING OFFICER. The Senator controls 58 minutes 20 seconds; the minority controls 70 minutes.

Mr. HATFIELD. Mr. President, I would suggest the absence of a quorum. I ask unanimous consent that it be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. 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. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I think under a unanimous-consent agreement I am to be recognized now for 5 minutes. Is that correct?

The PRESIDING OFFICER. That is correct. The Senator is recognized for 5 minutes.

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

FEDERAL AVIATION ADMINISTRATION AUTHORIZATION

Mr. PRYOR. Mr. President, I stand here this afternoon in the waning hours of this Congress urging our colleagues to support not only the FAA reform authorization bill but to urge with all my heart this body to include the language adopted by the conference offered by Senator HOLLINGS of South Carolina, the so-called Hollings amendment. I think that we should approach this rationally. I think that we should approach this matter with understanding and certainly with truth, a calm atmosphere. I know it has gotten remarkably emotional in the last several hours.

First, I hope our colleagues will know that this is not some amendment offered by the Senator from South Carolina to make it difficult for unions to organize. It is not a union-bashing amendment. It is nothing of the sort.

Furthermore, in my humble opinion, this was a mistake. It was a mistake when we phased out the Interstate Commerce Commission and moved those areas of concern and jurisdiction to other parts of our Government. Clearly, there was a disclaimer by the Congress and it said in section 10501 of the Interstate Commerce Commission Termination Act—it has been cited in the Chamber by the distinguished Senator from South Carolina. Once again I will cite that language:

> The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of the employees and employers by the Railway Labor Act.

That is precisely what I think this debate is all about. Why the so-called express carrier language was omitted in 1995, I, frankly, do not know. I think it was an error. I think it was a drafting error.

If that be the case, then I think it is incumbent upon this body to cure that error and to set the record straight. I do not believe that one person can be produced who can come and testify before this body, or tell this Senator, or perhaps any other Member of this body, that this was not an error. I do not know who that person is.

That is notwithstanding a report that is being cited freely on the floor of the Senate this afternoon by the American Law Division of the CRS, the Library of Congress.

In all due respect to whomever authored this particular rendition of what they felt the law was, I think

that this is, perhaps, one of the most confusing, ambiguous memoranda that I have read from this erstwhile very, very reputable division of the Library of Congress.

This flies also in the face of the staff of the Senate Commerce Committee and also of the staff of the House of Representatives Commerce Committee.

Mr. President, I ask unanimous consent their rendition of what actually happened in this area be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 28, 1996.

Hon. ROBERT LIVINGSTON,
Chairman, Committee on Appropriations,
Washington, DC.

DEAR BOB: I understand that some questions have been raised recently concerning the effect of the recently enacted ICC Termination Act on the Railway Labor Act. The new statute replaces the ICC with a Surface Transportation Board at the Department of Transportation. It also explicitly states in 49 U.S.C. 10501(c)(3)(B) the intention of the Congress that the ICC Termination Act is not to change the coverage of any employer or employee under the Railway Labor Act. This was the clear understanding of the Transportation and Infrastructure Committee, the Senate Commerce Committee, and the members of the conference committee. If there are any ambiguities in the new law concerning its effect on the Railway Labor Act, they were created unintentionally. Any such ambiguities should not be allowed to negate the clear intent stated in Section 10501(c)(3)(B).

I hope you find this information useful. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

SUSAN MOLINARI,
Chairwoman, Subcommittee on Railroads.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 12, 1996.

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

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. MAJORITY LEADER AND MR. SPEAKER: We are writing to you to set out the facts regarding a technical error in the ICC Termination Act of 1995, Public Law 104–88. The mistake concerns the context in which the ICC Termination Act addressed the relationship between the economic regulation of transportation under Subtitle IV of Title 49, United States Code, and the Railway Labor Act (45 U.S.C. 151 *et seq.*).

The ICC Termination Act abolished the former Interstate Commerce Commission, reduced economic regulation substantially in both rail and motor carrier transportation, and transferred the reduced but retained regulatory functions to a new Surface Transportation Board, part of the Department of Transportation.

One form of ICC regulatory jurisdiction under the former Interstate Commerce Act was exercised over "express carriers"—as defined in former 49 U.S.C. 10102, a person "providing express transportation for compensation." This was part of the ICC's jurisdiction, since express service originated as an ancillary service connecting with rail freight service.

The Railway Labor Act included in Part I coverage of "any express company . . . subject to the Interstate Commerce Act." [45 U.S.C. 15]

In the ICC Termination Act, economic regulation of express carriers was eliminated from the statutes to be administered by the new Surface Transportation Board, on the ground that this form of regulation was obsolete. (Another category of ICC and Railway Labor Act "carrier"—the sleeping-car company—was similarly eliminated from STB jurisdiction.)

In light of the abolition of economic regulation, the ICC Termination Act contained a conforming amendment (Section 322, 109 Stat. 950) which also struck the term "express company" from the Railway Labor Act definition of a "carrier." Although unaware of any possible effects of this conforming change on the standards applied under the Railway Labor Act, Congress plainly delineated its intent in new Section 10501(c)(3)(B) of Title 49, U.S. Code [109 Stat. 808]: "The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employers and employees by the Railway Labor Act."

The apparent contradiction between the legislative intent stated in Section 10501(c)(3)(B) and the conforming Railway Labor Act in Section 322 could be interpreted to alter the legal standards by which companies are determined to be governed, or not governed, by the Railway Labor Act. Therefore, a technical correction is necessary to restore the former Railway Labor Act terminology and thus avoid any inference that is at odds with the clearly stated legislative intent not to alter coverage of companies or their employees under the Railway Labor Act.

We hope that this brief summary of the facts will provide you with information useful in your future deliberations.

Respectfully,

BUD SHUSTER,
Chairman.
SUSAN MOLINARI,
Railroad Subcommittee Chairwoman.

Mr. PRYOR. Mr. President, it is very clear to me that there is, in fact, confusion. But the quickest and best way to eliminate that confusion is to simply support the Hollings amendment, return us to 1995, December, under that particular Act which for 62 years guided and had jurisdiction over "express carriers."

We could go into a long legal argument, and I am sure that legal arguments will be made on the floor of this body as to who is right and who is wrong. The substance of this issue must and should be debated. But now is the time, we think, that we should correct the issue, that we should go back to where we were, that we should once again set the record straight and start from there.

If hearings are needed next year, that is fine. But we should in this legislation support the Hollings amendment to the FAA Authorization and Reform Act.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield 10 minutes.

Mr. McCAIN. Mr. President, I believe under the previous unanimous consent agreement I had 10 minutes, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCAIN. Then I seek recognition.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank the Senator from Arkansas for his support of the Hollings amendment. I pray, because of the importance of this legislation, that we get an agreement and get moving on this. I again thank the Senator from Arkansas for his continued support and his statement in support of very important legislation. I hope, following the vote on the CR, we will take that bill up and get it resolved tonight. I hope.

OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. McCAIN. Mr. President, I applaud the managers of the bill and the leaders for all the hard work and long hours they have put into crafting this bill. The mere size of this bill alone—if we look at it here, 2,000 pages—is testament to the immense amount of work that they have done.

I also, of course, express my special thanks and appreciation to the Senator from Oregon, Senator HATFIELD, who not only this year but every year for the previous 30 years has done such a magnificent job. He will be sorely missed, not only because of his accomplishments, but because the Senator from Oregon has always, invariably, unwaveringly been a gentleman, and his unfailing courtesy to all of us, even if there is significant disagreement, will not only be long remembered but, I am sure, from time to time deeply missed.

There is much in this bill that merits support. The bill funds six Cabinet departments and hundreds of agencies and commissions. We must fund these departments and keep the Government open and operating. That is our duty.

Before I go on, I also want to pay special thanks to Keith Kennedy, who, again, unfailingly has been courteous and considerate to me for many years now. The work he has done will never be fully appreciated except by those of us who have observed the incredible labors which he has had to go through in satisfying some pretty enormous egos, and balancing the very difficult, competing priorities that exist here. I do not know of anyone who has done the job the way that Keith Kennedy has, not only for the State of Oregon, not only for the Appropriations Committee

and not only for the Senate, but for the United States of America.

Mr. President, we also have a duty not to waste the people's money. To spend simply for spending's sake is wrong. It is even more egregious to use the taxpayers' money in a manner designed to reap political and electoral gains. Unfortunately, that has occurred here.

It is common knowledge that as the end of the fiscal year approaches and Congress is forced to take up omnibus bills that must be passed, such legislation tends to be a vehicle for every Member's pet project. The term heard most often is that the bill becomes a "Christmas tree." Mr. President, this bill is definitely a Christmas tree, and a glorious one at that.

I note for the RECORD that those on this side of the aisle, while not without blame for much of the pork in the bill, did attempt valiantly to pass the appropriations bills in the normal fashion. Following the proper procedure would have allowed all the provisions of this bill to be examined and scrutinized in the light of day. Many would have been dropped, others amended or changed. Now, effectively, we do not have those options.

My colleagues on the other side of the aisle have made it so that this situation is very clear. They would offer a constant stream of nongermane, nonrelevant amendments to the appropriations bills. These amendments were designed to further a certain agenda. While such action is allowable under the rules, it was unfortunate and has resulted in the situation we now find ourselves.

I intend to vote against this bill. As I just stated, there is much in the bill that is meritorious and should be funded. However, the bill is indeed a Christmas tree, loaded with pork-barrel projects, and nonrelevant, not appropriate authorizing language. I would like to discuss many of the items I found in this bill that caused me consternation.

When a bill contains earmarks that forces the administration to spend money on one specific project, it denies other worthwhile projects the opportunity to receive funding. The following is a partial list of earmarks that I have found in the bill.

On page 16, the bill earmarks $1,900,000 for supervision of the Brotherhood of teamsters national election. While I do not question the need for Federal involvement in this matter, there is simply no need to specifically earmark and mandate that this spending occur at this exact level.

On page 92, a special trust fund is established with $60,000,000 deposited in it, for the payment of money to telecommunications carriers for burdens placed upon them due to law enforcement efforts. While I have always opposed unfunded mandates, many do in fact exist and many companies, especially many small businesses are excessively burdened by such unfunded mandates. I am concerned that while these small businessmen and women continue to be burdened, we are establishing a trust fund to pay some of our Nation's largest, most profitable companies.

This issue certainly merits debate, but not in the context of the underlying legislation. There is no pressing need that forces us to take this action at this time. This is an appropriations bill and if the Senate sees fit to establish such a trust fund, we should do so on other legislation.

This bill also contains language regarding Sallie Mae and library services and numerous other authorizing legislation that should not be here.

Mr. President, on page 126 of the bill, the funding for the Advanced Technology Program of the National Institute of Standards and Technology is funded at a level of $225,000,000. This number is an increase over the funding previously contained in legislation. This program is nothing but a corporate subsidy program. It is clear case of corporate welfare and I must object to the funding level for this program.

On page 182 of the bill $8,500,000 is earmarked specifically for the University of New Hampshire for construction and related expenses for an environmental technology facility. Mr. President, I have no way of assessing on behalf of my constituents whether this spending is meritorious or not. Further, I have no way of knowing whether other schools or entities that may engage in similar tasks and have similar or even more pressing needs.

Mr. President, numerous earmarks are contained on page 262. Three million is earmarked for the WVHTC Foundations outreach program. There is no explanation what WVATC is. Mr. President, $7,000,000 is designated for the grant to the Center for Rural Development in Somerset, KY; $1,000,000 is designated for a grant to Indiana State University for the renovation and equipping of a training facility; and $500,000 for the Center for Entrepreneurial Opportunity in Greenburg, PA.

On page 268, the State Justice Institute is funded at $6,000,000. This program was zeroed out by the House. I believe that such action taken by the House was entirely appropriate. I had hoped that we would have been able to end this program. However, due to the process in which this bill was crafted, I had no opportunity to seek to eliminate this program.

The conference report also includes a provision that waives ship building loan guarantee procedures intended to protect Federal taxpayers.

Current law requires the Department of Transportation to apply economic soundness criteria before the Federal taxpayer is asked to guarantee any shipbuilding loan under title XI of the Merchant Marine Act.

The purpose of the safeguard, of course, is to ensure that the vessel will be able to successfully compete in the market, so that Federal taxpayers are not left holding the bag for the defaulted loan.

This bill waives the economic soundness criteria for certain shipyards, making it easier to build ships that can't compete in the market. Mr. President, the provision is bad policy and it has absolutely no place in this bill.

To continue, on page 622, there is an earmark for Hot Springs, AR. On page 623, language regarding the Elwha and Glines Dams in the State of Washington is contained in the bill. On page 656 is even more language regarding the Elwha river. And on page 657, is language regarding the University of Utah. Additionally, beginning on page 659 is a series of land transfers in Nevada, New Mexico, and Oregon.

Mr. President, I note all these items not because I am questioning the integrity of the Members that requested them. But I am questioning their need, their merit, and their importance. And, unfortunately, I have no way to divine the answers to any of these questions.

This bill also contains numerous "emergency designations." When spending is designated an emergency, it does not have to be paid for—in other words, it will result in an increase to the deficit. This bill contains emergency funding to repair the damage done by Hurricane Fran and to pay for important anticrime and antiterrorism legislation.

However, I am very concerned that sometimes we are too quick to declare items emergencies. I see that $1.6 million is designated emergency spending for the Kennedy Center. The Kennedy Center is indeed a national treasure, but I must seriously question increasing the debt by $1.6 million for this funding at this time. I am sure we could find appropriate offsets to conduct the work.

When bills are crafted in this manner, there is no end to the discoveries that we might find. For example, I have fought for years to ensure that Department of Defense dollars are not wasted on international sporting events. As we all know due to the horrible terrorist act that occurred in Atlanta, there is an appropriate role for our military and police in ensuring that such events are safe.

But we must ensure that the Department of Defense budget does not become a cash cow to fund every other program. I worked with others last year to develop a manner in which DOD money used for sporting events would only be used for necessary security purposes.

I discovered when reading this bill a provision that establishes an account

at DOD to support these events. Any unobligated balances appropriated for the Atlanta Games and any reimbursements received by DOD for the World Cup Games would go into this fund. The fund would then be used to fund DOD involvement in other international sporting competitions.

This account is merely a way to funnel more defense dollars to the organizers of international sporting events. It is wrong and it should not be in this bill.

Mr. President, let me now turn to the fiscal year 1997 Department of Defense Appropriations Act contained in this bill.

My colleagues are all too painfully aware of my strong feelings about wasting scarce defense resources on pork-barrel projects. For many years, I have pointed out the billions and billions of defense dollars wasted on programs and projects that have little or nothing to do with ensuring our national security, but have everything to do with the popularity of their sponsors back in their States and districts.

Sadly, this year is no different from past years. The defense appropriations bill once again represents an egregious display of pork barrelling by Members of both the House and Senate.

The Republican-led Congress has worked hard to increase President Clinton's inadequate defense budget requests, adding a total of nearly $18 billion in the past 2 years. I fully supported these increases which have slowed, although not halted, the too-rapid decline in the defense budget over the past decade. Failure to provide adequate funding for defense will seriously hinder the ability of our military services to ensure our future security and will have a deleterious effect on our Nation's ability to influence world events and maintain peace.

I believed that most of my Republican colleagues shared my deep concern about our future security when we added $18 billion to the defense budget. However, after fighting hard for this additional $18 billion on the grounds of urgent national security requirements, the Congress failed to curb its traditional tendency to send scarce defense resources on special interest, pork-barrel projects.

On its face, this defense appropriations bill appears to address the serious shortfalls in military modernization funding in the President's defense budget plan. The bill adds a total of $5.7 billion to the procurement accounts, including tactical aircraft, sealift and airlift assets, improved communications systems, surveillance and reconnaissance, and other important warfighting equipment. The bill also adds $2.7 billion for research and development, to maintain the technological edge of our military forces on the battlefields of the future, including a significant increase in both theater and national missile defense programs.

Unfortunately, a closer look at the bill reveals the same sort of earmarks for special interest programs that have resulted in the waste of so many billions of defense dollars in the past.

There are, of course, the perennial adds, such as: $780 million for unrequested Guard and Reserve equipment, including more C–130 aircraft; $15 million for continued aurora borealis research and construction of the High Frequency Active Auroral Research Program [HAARP], for which there is no current military requirement or validated use; $300 million to be transferred to the Coast Guard; $27 million for the Justice Department's National Drug Intelligence Center; $10 million for natural gas vehicles and $15 million for electric vehicles; $20 million for optoelectronics consortia; and $493.6 million for medical research.

Let me take a moment to list some of the earmarks in the medical research area. They include breast cancer, prostate cancer, and ovarian cancer—a new earmark, as well as the usual brown tree snakes, rural health care, freeze-dried blood, and a long list of other special medical programs. Again this year, we see an earmark in the bill for medical research performed by—and I quote—"private sector or non-Federal physicians who have used and will use the antibacterial treatment method based upon the excretion of dead and decaying spherical bacteria." My question is this: if this particular program shows merit in a peer reviewed competition among research programs, why is it necessary to earmark funds for it? I must assume that the program cannot stand up to examination and, therefore, must be treated specially to ensure its continuation. What a waste.

Mr. President, this litany of pork-barrel projects is all too familiar to my colleagues. But let me take a moment to explore some of the interesting, new items included in this bill: $14 million for defense conversion activities in San Diego and Monterey, CA; language directing that the Department of Defense forgive the monetary value and forego the return of 5,000 ballistic helmets loaned to the Los Angeles County Sheriffs Department since April 1993; $1.5 million to electronic rifle targeting systems from the Atlanta Olympics and install them at Fort Benning, GA; a myriad of location-specific earmarks of environmental remediation, restoration, and technology development funds, including Jefferson Proving Ground, Bremerton Shipyard, Hawaii Small Business Development Center, National Defense Center for Environmental Excellence, as well as Fort Polk, McGregor Range, and Fort Bliss; $13 million for an unnecessary, duplicative, and cumbersome bureaucracy for oceanographic research, which the Navy does not need or want; and $650,000 for marine biocatalysts for defense and industrial applications, using an organization with tropical marine microorganisms collected from two major geographical regions, one of which is the Pacific Ocean.

Mr. President, this bill also includes more than $100 million in earmarks for programs which were not in either bill and were never considered by the Senate or the House. These projects just appeared in this conference agreement, often without explanation, and there is nothing any Member can do about it.

Of course, Mr. President, the administration also sought, and achieved, inclusion of a few more provisions in this conference agreement as late as last Friday night. These include another $100 million for the Dual Use Applications Program, formerly the Technology Reinvestment Project, or TRP, which has been plagued with politization from both Congress and the administration since its inception. In addition, as I mentioned before, the administration sought and achieved the addition of a provision establishing a new account to fund DOD assistance to international sporting events. This fund is entitled to receive not only direct appropriations but any reimbursements due to the Department of Defense for services rendered in the past or the future. This provision was not considered by either House of Congress, but again, there is nothing any one Member can do about either provision now.

Mr. President, it never ceases to amaze me how innovative and creative my colleagues can be in creating and earmarking funds for these pork-barrel projects. Perhaps we should spend as much time on reducing the deficit and ensuring that our military forces have the right equipment to fight and win in future conflicts.

Mr. President, I have mentioned just a few of the earmarks and add-ons in this bill, and I ask unanimous consent that a more complete list be included in the RECORD at this point.

These pork-barrel projects total more than $2.4 billion. When added together, pork-barrel spending in the defense bills in just the past 2 years totals more than $6 billion. That is one-third of the entire increase in the defense budget—an increase for which this Republican Congress fought so hard on the basis of national security.

Mr. President, these projects have little or nothing to do with national security. They are special interest items designed to enhance the reputations of their sponsors back in their States. They are projects which serve the political and economic interests of their sponsors, rather than the security interests of all Americans.

The simple fact is that wasting money on projects like these, which have little or no military relevance, is dangerous. It takes money away from the high-priority requirements of the

military services. It is counter-productive to our efforts to ensure that our troops are trained and equipped to successfully perform their missions in any future conflict. Pork-barrelling harms our national security.

The American people are entitled to know how the Congress is spending their tax money. The simple fact is that the American people are sick and tired of congressional pork-barrel politics. By continuing the practice of pork-barreling with defense dollars, we run the serious risk of further eroding the already low level of support for defense spending among the voters. But we seem unable to change our long-standing tradition of bringing home the bacon.

The American people will not stand for this type of wasteful spending of their tax dollars. If we in Congress refuse to halt the pork-barrelling, it will be more and more difficult to explain to the American people why we need to maintain adequate defense spending. I would prefer that the $2.8 billion wasted on pork-barrel projects had not been included in the bill. I hope that, next year, with the very real threat of a line-item veto of some of these items, the Congress will stop wasting defense dollars on these kinds of special interest items.

Let me conclude by saying that I believe this is a sad display of the Congress putting its Members' interests ahead of the interests of the majority of the American people. I cannot support this bill.

I am also concerned about provisions in the bill regarding native Americans and gaming. These provisions should have been considered by the Committee on Indian Affairs. This bill is not the appropriate vehicle for this debate.

Mr. President, I also want to express my concern regarding an opposition to section 330 of the general provisions of the Interior and related agencies portions of this omnibus appropriations bill because section 330 would, in a discriminatory fashion, dismantle the rights of one Indian tribe to conduct gaming activities on its lands like all other Indian tribes.

Section 330 is specific to Rhode Island. It would expressly deny to the only federally recognized Indian tribe in Rhode Island, the Narragansett Indian Tribe, the rights other Indian tribes have under the Indian Gaming Regulatory Act.

I will focus most of my remarks on why I think section 330 should be rejected as bad policy. But first, I want to say a few words about why, on procedural grounds alone, I oppose this section on this appropriations bill from my perspective as chairman of the authorizing committee of jurisdiction, the Committee on Indian Affairs.

I have the deepest respect for my colleagues from Rhode Island, Senators CHAFEE and PELL, and for the others who have been involved in shaping section 330. But I must say that section 330 of this appropriations bill is an unfair, end-run around the ongoing work of the authorizing committee.

None of the provisions of section 330 have ever before been part of any bill or introduced or amendment filed in either House or Senate. It is new language added for the first time last week by the House to the omnibus appropriations bill. Section 330 would substantially amend authorizing legislation on an appropriations measure without the benefit of any legislative hearings, without any contribution by the authorizing Committees of jurisdiction, and without any public debate by those most affected—the Narragansett Indian Tribe of Rhode Island.

Let me say that, at the same time, I appreciate the position of Senators CHAFEE and PELL and understand why they have taken it. This issue has been quite troubling to them, to Rhode Island officials, and to the Narragansetts themselves. It stems from an apparent misunderstanding about whether the Congress intended the tribe or the State to have civil jurisdiction over gaming on tribal lands acquired under the Narragansett Land Claims Settlement Act of 1978.

In 1988, Senators CHAFEE and PELL withdrew a floor amendment during consideration of the Indian Gaming Regulatory Act legislation which they had drafted to resolve this issue in favor of the State after they received what they understood to be assurances that jurisdiction over gaming resided exclusively with the State. The meaning of those assurances have been in hot dispute ever since.

This past January, I met with Senators PELL and CHAFEE at their request to review their concerns and discuss what they could do. At that time I made it clear to them that, although I opposed them on the merits, I would not use my position as chairman of the committee of jurisdiction to block a bill they would introduce to amend the Narragansett Land Claims Settlement Act to gain the clarity they sought against the tribe. Indeed, I told them I would schedule a hearing and allow the bill to move to the Senate floor for consideration. I was surprised to see that they did not take any such action during this entire session. Had they done so, we would have long ago voted on authorizing legislation, with the benefit of a full and fair hearing record.

Now, on the eve of adjournment of the 104th Congress, without the benefit of any hearing or public debate, and without any involvement of the Indian tribe directly affected, the sponsors of section 330 have attached it to an appropriations vehicle. I oppose this effort on these grounds alone, and urge my colleagues to reject it.

On the merits, I oppose any effort to deny to the Narragansetts or any other individual Indian tribe what is protected for all other Indian tribes—the right to conduct governmental gaming activity on their own lands. It is unseemly to single out one Indian tribe for discriminatory treatment in this way.

If Rhode Island finds gaming so offensive, it now has the power to enact a criminal ban on such activity, as have Utah and Hawaii, and thereby preclude under Cabazon and IGRA the Narragansett Tribe from conducting any such gambling activity. Rhode Island now permits some gaming activity within its borders. The U.S. Supreme Court in Cabazon said an Indian tribe may exclusively regulate the conduct of those games not otherwise prohibited under the criminal law of a State.

I have studied the situation in Rhode Island. I fail to see why the proponents of this section 330 feel a need to move it through on the eve of adjournment in this way. The decided trend in the courts has been favoring States over the Indian tribes. The latest decision in Seminole has meant that an Indian tribe has no effective remedy against a State for a State's refusal to negotiate.

I must say I would understand the position of the proponents of section 330 if they were to raise it early next year rather than on the eve of adjournment. For if the Secretary does issue proposed regulations in early 1997 in the way that was referenced in the 11th Circuit Court of Appeals holding in Seminole versus Florida, and if they are written in such a way as to give the tribe something the State does not support, I would understand efforts made at that time by the Senators from Rhode Island to ban gaming on Narragansett Indian lands. I would still oppose them, in principle, but again, I would not block them from having an opportunity to gain the full consideration of the Senate after a fair and full hearing of the authorizing committees of jurisdiction.

Finally, Mr. President, although as of last week this section 330 was opposed by the administration, and Interior Secretary Babbitt had warned, in a letter to Senator CHAFEE, that if this language is included in an appropriations bill he would recommend that the President veto the bill, it now appears that section 330 was approved by the administration negotiators. The apparent turnabout of the administration on this issue over the weekend, while not necessarily surprising given this administration's pattern of flipping and flopping from 1 day to the next, is highly unfortunate. I for one cannot and will not support such language.

As chairman of the Committee on Indian Affairs, I oppose section 330 and ask that both my colleagues and the administration never again condone such an assault on one Indian tribe's basic rights and responsibilities. Consideration of such a dramatic change in

Federal-Indian policy should be reserved to the deliberate care of the authorizing committees of jurisdiction.

I also strenuously oppose a new provision added late last week to the omnibus appropriations bill that would prohibit any effort to provide direct funding to an Indian tribe of that tribe's share of Bureau of Indian Affairs central office or pooled overhead general administration funds under Tribal Self-Determination or Self-Governance contracts, grants, or funding agreements.

The new language appears in the unnumbered "administrative provisions" section at the end of the funding provisions for the Bureau of Indian Affairs—page 640 of the House-passed bill. The language added is as follows:

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations or pooled overhead general administration shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provision of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103-413).

Mr. President, I object to this language for two reasons. First, this restrictive provision surfaced for the first time over the weekend. It has not been part of any authorizing or appropriations committee bill language this year.

Second, in 1994 the Congress expressly directed, in Public Law 103-413, that these BIA central office and general administrative funds be available for negotiation into direct funding of tribal shares to all tribes asking for these funds. The new provision added during the weekend would expressly override Public Law 103-413.

I have always supported every fair and reasonable effort to shift more of appropriated funds into direct, block-grant type transfers to Indian tribes. For this reason we have steadily opened up more and more of the BIA's funding sources to tribal Self-Determination and Self-Governance negotiations, in order to allow those Indian tribes choosing to do so to receive these funds directly and administer them according to tribal priorities. Shifting funds in this way to Indian tribes is a very effective way of reorganizing more and more on the BIA. One last bastion of bureaucratic power is the BIA central office and the general administration or pooled overhead accounts maintained by the BIA. Despite Public Law 103-413, the administration has refused to transfer to Indian tribes the funds appropriated for these central office accounts on the basis that the Committees on Appropriations have objected. Now, on the eve of regulations being issued that will fully implement Public Law 103-413, the Committees on Appropriations have included express language nullifying the relevant provisions of Public Law 103-413. I object to this process and oppose the outcome.

The Committee on Indian Affairs actively addressed the issue of BIA reorganization during the 104th Congress. Early in 1996 we reported a comprehensive BIA reorganization bill, S. 814, but further consideration by the full Senate of S. 814 was precluded until last month when Senator GORTON removed a hold he had placed on the bill.

In the course of our discussions on his objections to S. 814, Senator GORTON suggested we find some areas of common agreement as an interim step that would increase the proportion of Federal funding that is placed under the direct and flexible control of tribal governments. Our efforts were partially reflected in a section 118 which Senator GORTON added to the Interior appropriations bill in committee, describing it as a "work in progress." Unfortunately, our progress in developing language to provide Indian tribes with direct and flexible control of a larger share of Federal funding ground to a halt over several fundamental differences in approach.

In our discussions concerning section 118, I maintained my firm belief that any such language must preserve an Indian tribe's choice to administer some or all of the funds appropriated for its benefit, consistent with the time-tested policies under the Indian Self-Determination Act. I insisted that section 188 should be drafted in such a way as to allow an Indian tribe to decide to take over the operation of some or all programs. For example, a tribe may in its sovereign authority choose not to take over law enforcement operations, or some other particularly problematic area. Instead of some or all, Senator GORTON insisted that section 188 authority be for all or nothing, that a tribe choosing not to do everything would be precluded from doing some things. Another issue that divided us involved some oversight language I felt was overly broad and sought to replace with a requirement that applied to Indian tribes the financial accountability requirements of the Indian Self-Determination Act, as amended. Whether or not education and transportation funds administered by the BIA should have been excluded from the formula negotiations remained another area of disagreement. Given these important differences, Indian tribes across the country asked that section 118, in its incomplete form, be removed.

I appreciate the fact that Senator GORTON agreed to remove section 118. I want to make something very clear—Senator GORTON and I have agreed that the BIA is in dire need of dramatic reorganization. He and I also have agreed that a preferred approach is to expand opportunities for tribal self-determination and tribal self-governance. And so I am glad that he agreed to lift the annual limit on the number of tribes who can be added to the 63 compacts now serving 210 of the total of 557 tribes. This amendment will permit 50 additional tribes to be added to the Self-Governance Program each year.

However, I am profoundly disturbed by the fact that, without negotiation or discussion, the Committee on Appropriations added a new provision over the weekend to completely insulate nearly 100 million dollars' worth of BIA centralized bureaucracy from any transfer of funds and associated authority to Indian tribes.

Appropriations staff say the administration asked for this provision. Well, this provision was not in the President's budget request. It was not in the official administration testimony provided to the Committee on Indian Affairs during our consideration of S. 814, the BIA reorganization bill. This provision is in direct contravention of provisions of existing law in Public law 104-413, and I oppose it.

I strenuously oppose this end-of-the-session effort to protect the BIA bureaucracy from the tribal direct-funding initiatives that are now in existing law and I ask my colleagues to join me in opposing this provision.

Mr. President, in closing, again, I want to thank the managers of the bill for all their work. It does not go unappreciated. I only wish I could support what they crafted, but for the reasons I have just explained, I cannot.

Mr. President, sooner or later we are going to stop this. We are going to stop this kind of spending, and we can do it by passing appropriations bills one at a time with proper scrutiny and amending. But, also, we can understand that our national defense and national security deserves far better.

Mr. President, I ask unanimous consent that a list of items designated as "Emergency" be printed in the RECORD.

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

ITEMS DESIGNATED AS "EMERGENCY" IN OMNIBUS BILL

[Dollars in millions unless otherwise noted]

Dollars	Item	Page
3.6m	Office of Intelligence Policy and Review	2
20m	Attorney General Terrorism	4
1m	Executive Office of Immigration	6
1.719m	Criminal Division Terrorism	12
10.9m	Terrorism and Security	16
115.6m	FBI terrorism	35
60m	Telecomm Carrier Compliance Fund	37
5m	Domestic and foreign DEA	41
15m	Aliens with ties to terrorism	47
17m	Firefighting terrorism	59
3.9m	Nonproliferation of illegal exports of chem	108
10m	Workload from terrorism	161
23.7m	Counterterrorism overseas	182
24.8m	Security improvement overseas terrorism	188
1.375m	Security—terrorism	211
25m	Hurricane relief—EDA	295
22m	Hurricane relief SBA	295
3.5m	Firefighting on public lands	729
100m	Wildland Fire Management	729
2.5m	Oregon and CA Grant Lands	729
2.1m	Resource Management	730
15.8m	Construction	730
2.3m	Operation of National Park System	730
9.3m	Construction—hurricanes/terrorism	730
1.1m	Surveys, Investigations and Research	731
6.6m	Operation of Indian Programs	731
6m	Construction—floods	731

ITEMS DESIGNATED AS "EMERGENCY" IN OMNIBUS BILL—Continued

[Dollars in millions unless otherwise noted]

Dollars	Item	Page
3.4m	National Forest System—hurricanes	732
550m	Wildland Fire Management (repayment)	732
5.2m	Reconstruction and Construction—hurricane	732
935,000	Smithsonian—Salaries and Expenses	733
1.6m	Kennedy Center—Operation and Main	733
3.4m	Kennedy Center—construction	733
382,000	National Gallery Art—terrorism	733
1m	Holocaust Memorial Council—terrorism	734
288,000	Foreign Assets Control	170N
34,000	Salaries Inspector General	170N
15m	Counterterrorism Fund	170O
1.35m	Federal Law Enforcement and Training	170O
2.7m	Acquisition, Construction	170O
449,000	Financial Management Service	170P
66.4m	Construction and Expansion of canine train	171
62.3m	U.S. Customs air carriers, airports	171
10.4m	IRS processing, assistance	172
3m	Secret Service	172
210,000	OPM—salaries and expenses	172A
112.9m	Drug interdiction	172B
63m	Watershed and flood Prevention	Title V
25m	Emergency Conservation—hurricane	Title V
57.9m	FAA security activities	Chapter 5
147.7m	Facilities and Equipment	Chapter 5
21m	Research, Engineering and Development	Chapter 5
82m	Emergency Relief—hurricane	Chapter 5
6m	NTSB—salaries	Chapter 5
1m	NTSB—emergency	Chapter 5
3m	Research and Special Programs	Chapter 5

$1.757 billion in emergency designation.

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

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I yield myself 10 minutes on this side.

The PRESIDING OFFICER. The Senator is recognized.

Mr. LAUTENBERG. Mr. President, the legislation before us includes a provision that I authored that will prohibit anyone convicted of a crime involving domestic violence from possessing firearms. I want to take a few minutes of the Senate's time to reflect on just what that means.

We are today about to perform a great and moral act that a human being can perform—one of the best. We are about to save the life of another person. Today, we are going to save the life of the ordinary American woman, a woman who loves her kids, a woman who loves her family. Today, this ordinary American woman is married to someone who is generally a decent, law-abiding guy, but with one exception. Sometimes when things get rough and the stresses of life build, he loses his temper because his emotions get the best of him. He loses control, flies into a rage and then strikes out violently at those closest to him.

Once he beat his wife brutally and was prosecuted, but like most wife beaters, he pleaded down to a misdemeanor and got away with a slap on the wrist.

Mr. President, next year, this fellow is going to lose his cool at work, or with the boys, and he is going to go home one day and get into another argument with his wife. As arguments often do, it will escalate, and this time, as before, it will get out of control. As their children huddle in fear, the anger will get physical, and almost without knowing what he is doing, with one hand he will strike his wife and with the other hand he will reach for the gun he keeps in his drawer. In an instant their world will change. And this woman, this loving mother, this ordinary American, will die or be severely wounded.

Later, maybe the husband will go to prison. The children will be left parentless, and the effects of the tragedy will ripple for years throughout their lives and throughout the lives of so many others.

Except, Mr. President, because of what we are about to do, this story is going to have a different ending.

Yes, the husband may lose his cool at work and, yes, maybe they will get into the same argument; yes, his rage will fly out of control; and yes, it will probably lead to violence. But when this man's hand reaches into that drawer, there will not be a gun there. So that fatal instant, that moment of fleeting madness, will never happen.

In the end, that ordinary American woman, that loving mother, will end up being bruised, maybe she will end up unconscious in the hospital. But when the next day comes, hopefully, she will awaken, she will see the morning Sun through her swollen eyes, and, if lucky, she will leave the hospital and get on with her life, a life to see that frightened child grow up and go to school. She will live to see him graduate, find a job, and create his own family. That will happen because—and only because—we are about to save her life this day.

Mr. President, over the years there will be thousands of women like this, each one with a family of loved ones, each one with their own dreams. And there will be children. And they will all live, Mr. President. They will all live because of what we do here this day.

Mr. President, you and I will never know the women and children whose lives we are about to save. They will never have a chance to thank us. They will never know that their lives were spared.

But for the rest of our lives, you and I and other Senators, we will have the privilege of knowing that we have lived up to the very highest of our own ideals. We have done nothing less than reach forward into time, put our hands around tragedy and death and remolded it back into life itself. We have done that many, many times, over and over and over again.

Mr. President, this tremendous victory for the forces of life would not have happened but for the hard work and dedication of many people. I want to express my deep appreciation to all of those who played a role.

In particular, I want to thank President Clinton, Leon Panetta, many dedicated men and women in the Clinton administration.

A moment ago, we saw the distinguished chairman of the Appropriations Committee, Senator MARK HATFIELD, on the floor. I want to thank him. He was solidly behind our effort.

The commitment of the people I just mentioned to this cause was absolutely essential to getting this done. I am grateful to the President for that support.

I also want to thank our distinguished Democratic leader, Senator DASCHLE. He supported me in this effort from the beginning, from way back in the beginning of the year. His efforts in the final hours were of great help. I very much appreciate his commitment to the victims of domestic abuse and for his friendship, notwithstanding my repeated phone calls to him to discuss this legislation.

I also want to publicly thank those who work in my office and in the Senate and many others here in Washington and around the country who have helped make this possible. Over 30 national organizations got behind this effort. Many, many people made significant contributions.

I particularly am appreciative of Sarah Brady and Handgun Control for raising this issue at the Democratic convention and giving it the public attention that it required and deserved.

I want to thank the American Bar Association, whose public statement on a weaker alternative version was critical in persuading my colleagues not to try to water down the proposal. Also, the Coalition to Stop Gun Violence, who took the initiative to build support among a wide variety of other organizations, and the Violence Policy Center, the National Coalition Against Domestic Violence, the National Network Against Domestic Violence, all of whom helped sound the trumpet about this legislation.

Many other groups also played important roles.

Mr. President, for the historical record, I would like to take the opportunity to discuss some of the history behind the domestic violence gun ban, and the changes in the legislative language that are incorporated into the final agreement.

Mr. President, I originally introduced the domestic violence gun ban as S. 1632 on March 21 of this year. After extensive negotiations with the Republican leadership, including Senator LOTT, Senator CRAIG, and Senator HUTCHISON, the proposal was then modified slightly and incorporated into an antistalking bill by a voice vote. Unfortunately, the House failed to act on the antistalking bill. I then offered the modified version of the legislation as an amendment to the fiscal year 1997 Treasury, Postal Service and general Government appropriations bill, and the amendment was approved by a vote of 97 to 2. However, Senator LOTT pulled the Treasury, Postal bill from

the floor, and a version of that legislation has now been incorporated into this omnibus spending bill.

The language in the final agreement was worked out early Saturday morning, September 28, through further negotiations with the Republican leadership. Initially, opponents of my legislation had proposed to gut the legislation, primarily by inserting three major loopholes. First, they proposed to exclude child abusers from the ban, by limiting its application only to crimes against intimate partners. This outrageous proposal was withdrawn once it was held up to public scrutiny.

Second, opponents of the gun ban proposed to limit the ban only to offenders who had been notified of the ban when they originally were charged. This effectively would have exempted all currently convicted offenders from the ban. It also would have meant that most offenders in the future would escape the ban, since there was no requirement that they actually be notified. In effect, gun ban opponents wanted to say that ignorance of the law would be an excuse for wife beaters, even though it is not an excuse for anybody else. Eventually, this proposal, too, was dropped.

The third major loophole proposed by gun ban opponents was to limit the ban only to offenders who had been entitled to a jury trial. This would have rendered the ban close to meaningless, as the vast majority of these cases are heard before a judge, in a bench trial.

Those who proposed this new loophole eventually agreed to drop it entirely. Therefore, the ban will apply to all wife beaters and all child abusers, regardless of whether they were convicted in a trial heard by a judge or a jury.

Mr. President, after agreeing to drop the jury trial requirement, opponents of a strong gun ban continued to express concern that gun rights should not be lost without an assurance that offenders will be provided with all appropriate due process protections. To reassure them on this point, we agreed to include in the final agreement a provision that has no real substantive effect, but that may help to assure some people that nobody will lose their ability to possess a gun because of a flawed trial. This provision, in essence, states that the ban will not apply to someone who was wrongly denied the right to a jury trial. More specifically, the language protects from the ban anyone who had been entitled to a jury trial, but who did not receive such a jury trial, or who did not knowingly and intelligently waive his right to a jury trial.

Of course, Mr. President, if an offender was wrongly denied the right to a jury trial, he was not legally convicted. And so this language really does not change anything. But, again, as it provided needed reassurance to some, I agreed to it in order to facilitate the final agreement.

I do want to make very clear, however, that this language should not be interpreted to indirectly include any requirement of notice for a waiver to be considered to have been made knowingly and intelligently. That is, one can plead guilty or otherwise effectively waive one's constitutional right to a jury trial, and in considering the validity of such a waiver it is irrelevant whether the individual knew that a conviction will lead to a firearm ban. Although that should be clear from the face of the statute, given opponents' efforts to seek a notice requirement, I wanted to state this definitively for the record. This point was made very explicitly in the negotiations, and was agreed to by all sides.

Mr. President, the final agreement does include some minor changes to the Senate-passed version that actually strengthen the ban slightly. Let me review some of them now.

First, the revised language includes a new definition of the crimes for which the gun ban will be imposed. Under the original version, these were defined as crimes of violence against certain individuals, essentially family members. Some argued that the term crime of violence was too broad, and could be interpreted to include an act such as cutting up a credit card with a pair of scissors. Although this concern seemed farfetched to me, I did agree to a new definition of covered crimes that is more precise, and probably broader.

Under the final agreement, the ban applies to crimes that have, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon. This is an improvement over the earlier version, which did not explicitly include within the ban crimes involving an attempt to use force, or the threatened use of a weapon, if such an attempt or threat did not also involve actual physical violence. In my view, anyone who attempts or threatens violence against a loved one has demonstrated that he or she poses an unacceptable risk, and should be prohibited from possessing firearms.

Mr. President, another new provision in the final agreement clarifies that a conviction will not lead to a firearm disability if the conviction has been expunged or set aside, or is for an offense for which the person has been pardoned or has had civil rights restored. This language mirrors similar language in current law that applies to those convicted of felonies.

I would note that the language on civil rights restoration, as it has been applied in the past, and as it should be interpreted in the future, refers only to major civil rights, such as the right to vote, to hold public office, and to serve on a jury. Loss of these rights generally does not flow from a misdemeanor conviction, and so this language is probably irrelevant to most, if not all, of those offenders covered because of the new ban. But I want to make it clear that the restoration of any firearm rights under state law would not amount to a civil rights restoration for these purposes. In fact, any such State law effectively would be preempted by this language, and so could not have any legal effect.

Mr. President, I now want to take a moment to briefly discuss the implementation of this new law.

Mr. President, the final agreement does not merely make it against the law for someone convicted of a misdemeanor crime of domestic violence from possessing firearms. It also incorporates this new category of offenders into the Brady law, which provides for a waiting period for handgun purchases. Under the Brady law, local law enforcement authorities are required to make reasonable efforts to ensure that those who are seeking to purchase a handgun are not prohibited under Federal law from doing so.

Mr. President, convictions for domestic violence-related crimes often are for crimes, such as assault, that are not explicitly identified as related to domestic violence. Therefore, it will not always be possible for law enforcement authorities to determine from the face of someone's criminal record whether a particular misdemeanor conviction involves domestic violence, as defined in the new law.

Mr. President, I would strongly urge law enforcement authorities to thoroughly investigate misdemeanor convictions on an applicant's criminal record to ensure that none involves domestic violence, before allowing the sale of a handgun. After all, for many battered women and abused children, whether their abuser gets access to a gun will be nothing short of a matter of life and death. I am hopeful that law enforcement officials always will keep that in mind as they implement this requirement.

Having said this, Mr. President, I recognize that there are limits to the ability of many law enforcement agencies to conduct in depth investigations of large numbers of applicants for handgun purchases. The law requires that these agencies make a reasonable effort to investigate applicants. What is a reasonable effort depends upon the local law enforcement officials' available time, resources, access to records, and their own law enforcement priorities.

In my view, the reasonable effort requirement should not be interpreted so broadly that it would substantially interfere with the ability of a law enforcement agency to carry out its central mission of apprehending criminals and protecting the public from crime. At the same time, it should not be interpreted so narrowly that it would allow law enforcement agencies to routinely ignore misdemeanor convictions

for violent crimes, without further exploration into whether these crimes involved domestic violence. So long as an agency makes a reasonable effort to do so, the requirements of the law would be met. However, again, I would strongly urge law enforcement officials to make this a top priority.

Finally, Mr. President, I want to acknowledge some of the many people who have played a role in moving this legislation forward.

As I noted earlier, I am especially grateful to President Clinton for his strong support of this initiative, which was absolutely essential to its enactment.

I also want to again thank many of the organizations and people who have supported the effort. In addition to those I mentioned earlier, these include the American Academy of Pediatrics; Children's Defense Fund; Consumer Federation of America; Family Violence Prevention Fund; the National Center on Women and Family Law; the Center for Women Policy Studies; American Ethical Union; Church of the Brethren; American Friends Service Committee; Friends Committee on National Legislation; Lutheran Office for Governmental Affairs; American Public Health Association; American Jewish Committee; AYUDA; Church Women United; Congress of National Black Churches; Evangelical Lutheran Church in America; YWCA of the USA; United Methodist Church, General Board of Church and Society; Peace Action, National Clearinghouse for the Defense of Battered Women, National Urban League; NOW; National Council of Jewish Women; Pennsylvania Coalition Against Domestic Violence; Physicians for Social Responsibility; Presbyterian Church USA; Union of American Hebrew Congregations; Unitarian Universalists Association; United Church of Christ; and Justice for Kids.

In conclusion, Mr. President, I believe that this legislation will save the lives of many battered wives and abused children. And it will send a message that, as a nation, we are determined to take the problem of domestic violence seriously.

Mr. President, getting this legislation enacted has been a long and very difficult struggle. We had to overcome intense opposition from one of the most powerful special interests in American politics. We have overcome one roadblock after the next, and there have been several times when I did not think we would make it.

But throughout it all, the supporters of this bill have always kept in mind that we were fighting for literally a matter of life and death. That knowledge has helped sustain us and make us that much more determined as we have worked our way through the legislative minefield.

So, in the end, we have a glorious victory, a victory for America's frightened, battered women, a victory for our abused children, a victory of life over death.

I am honored and humbled to have been able to play a part in this legislation. We hope that the enforcement of the law will be as rigid as the law very simply defines it. If you beat your wife, if you beat your child, if you abuse your family and you are convicted, even of a misdemeanor, you have no right to possess a gun. That is the way it ought to be. Lord willing, it will be. I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 4 minutes and Senator HELMS be permitted to speak for 4 minutes.

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

Mr. DOMENICI. I may not use all of my time.

Mr. President, first, I want to say this is not a pretty bill. There are plenty of reasons to be against it. But there are far more reasons to be for it, not the least of which is the fact that this bill will close out the appropriations for the year and the Government of the United States will continue to operate for the next 12 months.

Having said that, I think there are a couple of people we should thank: First of all, the chairman of the full committee, Senator MARK HATFIELD, for his hard work, long hours, and diligent insistence on getting this done. To our distinguished majority leader, who, in a short time as leader, has understood these processes better than most of us who have been here a long time. Indeed, he did what most of us thought was the right thing to do, and he got right in the middle of it and got this job done. My compliments go out to him.

Mr. President, I have commented here on the floor and included an amendment heretofore in the foreign operations appropriations bill with reference to the drugs that are coming across the southwest border. I have not been very congenial with the Mexican Government because I believe they are not doing everything they can to prosecute the drug kingpins residing in Mexico. I think these kingpins are going to bring Mexico's Government to a standstill in the very near future.

So, to make sure that the United States is doing its share with respect to the southwest border, where 70 percent of the cocaine comes into America—it does not come other ways, it comes right across the land of Texas, New Mexico, Arizona, and California—many of us said we better do as much as we can to make sure that the border is as well protected as possible.

I want to say to the U.S. Senate and to the people of this country that we have done that in this bill. There is total funding in this bill for the U.S. attorneys of $987 million, including a setaside of $4.6 million to prosecute cases on this southwest border where there is an enormous overload because of this drug trafficking.

There is over $1 billion for the Drug Enforcement Agency, an increase of $200 million over last year. This includes a southwest border initiative which provide the following: $9 million for cooperative efforts with the FBI to penetrate command and control communications of Mexican drug traffickers; $8 million and 50 agents to investigate leads obtained from new wiretap authority to be used against drug dealers on the border; over $2 million to focus on methamphetamine trafficking; and $4 million for classified intelligence research; $11 million for 130 new special DEA staff and field office needs to support the mobile enforcement teams on that border. The DEA funding also includes $55 million to expand the DEA's current supply reduction efforts and restore funding for international drug control Program to the same level as it was in 1992. It has been reduced since then, and it is now back to that 1992 level. Mr. President, this bill also includes $2.1 billion for the INS, including $121 million for 1,000 new Border Patrol agents, $27 million for equipment, including infrared scopes and censors to track and intercept drug smugglers, and $12 million for 150 new land border inspectors.

I believe this is an excellent commitment on the part of the U.S. Government, and when signed into law it will do as much as we can to control drugs on the border.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, when Hurricane Fran swept across North Carolina on September 5, it left a path of unprecedented destruction; thousands of citizens lost their homes, their cars, their farms, or their businesses. The cost of the damage exceeds $5 billion, making that the most devastating disaster in North Carolina's history.

I am delighted that after weeks of negotiations, North Carolina will receive a total of $1.8 billion in disaster aid. This much needed assistance will assist farmers, homeowners, and small businessmen in getting back on their feet.

From the outset, we worked closely with the North Carolina delegation and with Gov. James B. Hunt in developing a package to provide adequate funds for disaster relief. We made clear that in light of the enormous damage to North Carolina, we would seek a total of $2 billion. Last week, we secured $1.3 billion for FEMA for funds to provide emergency assistance, temporary housing, and debris removal.

Mr. President, the pending legislation allocates an additional $500 million for various programs that provide

needed services. For example, the Department of Agriculture is authorized to provide emergency loans to farmers, the Army Corps of Engineers can perform debris removal, dredging, and beach renourishment, and the Small Business Administration can help out with low-cost loans.

I am deeply grateful to Senate Majority Leader TRENT LOTT, Assistant Majority Leader DON NICKLES, and the chairman of the Senate Appropriations Committee, MARK HATFIELD, the ranking member, Senator ROBERT C. BYRD, and others, for standing firm and helping preserve the $1.8 billion total.

In the process, President Clinton proposed in effect to cut North Carolina's request by $434 million. It was reported that the President sought an increase of $225 million of the U.S. taxpayers' money to be given to the United Nations and the State Department while cutting the disaster aid to North Carolina.

In the end, we worked with Senators LOTT, NICKLES, BYRD, HATFIELD, and others to ensure that sufficient funds would be allocated for disaster relief irrespective of any request for funds filed by the White House.

North Carolinians have unfailingly supported other States where disasters have struck. So we are thankful that other states have now supported our efforts to secure adequate funds for North Carolina in its effort to recover from disaster.

The road to recovery will be a long one, but I hope that these Federal disaster funds will make the process a bit easier for our citizens who have suffered so much.

Mr. STEVENS. Mr. President, I ask unanimous consent for 4 minutes.

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

Mr. STEVENS. Mr. President, the bill before the Senate contains the conference agreement reached by the Defense Appropriations Subcommittee with the House on the bill H.R. 3610, the Fiscal Year 1997 Department of Defense Appropriations Act. I am proud of this bill, and urge all Members to support the conference report.

We initially reported this bill to the Senate on June 21, 1996. We passed the bill in July, and intended to proceed to conference. Sadly, the House chairman, BILL YOUNG, was temporarily out of action due to heart surgery. I am pleased to report that Chairman YOUNG's vigorous and determined leadership this past month testified to his complete recovery from the problems that caused his brief absence in July.

Despite this delay, we completed our work on Thursday, September 12, and expected the bill to come back before Congress the following week. Intervention by the White House resulted in the delay that brings the defense bill before the Senate today, as part of this omnibus appropriations package. Happily, the content of the bill remains as set by the conferees earlier this month.

The conference report provides a total of $243.946 billion in new budget authority for the Department of Defense for 1997. That total is $950 million less than the level passed by the Senate, and $1.3 billion less than the House passed bill.

Compared to the President's budget, the bill provides $9.268 billion more than he sought for 1997. But when compared to the 1996 level, including all the supplementals for Bosnia and other overseas contingencies, this bill is effectively a freeze at the 1996 level. In my view, the amounts provided in this bill are the bare minimum that can be provided for our national defense.

This conference report remains true to the priorities set by the Senate in its version of the bill. We have fully funded the pay raise for military personnel, and added funds above the President's request for housing, barracks, and health care. This conference report truly enhances the quality of life for military personnel, their families, and retirees. That is our obligation and duty, and we have discharged that responsibility in this bill.

The increases in the bill compared to the President's budget are spread among all titles. Personnel spending is increased by $233.7 million. Operation and maintenance spending is increased by $701 million. Procurement spending is increased by $5.7 billion, but remains $253 million less than the amount provided by Congress for 1996. Research and development accounts are increased by $2.7 billion, an increase of $951 over the level provided for 1996.

The increase for R&D addresses the commitment of this Republican majority Congress to put us on the path to a meaningful ballistic missile defense program. I especially note the increase of $325 million for national missile defense, including funds for the Air Force Minuteman II based national missile defense concept. We must accelerate to the maximum extent technology will permit work on a real national missile defense system. The funds in this conference report keep us on that path.

Additionally, we provide $137 million for breast cancer research in the conference report, and $45 million to establish a new prostate cancer research initiative through DOD. I want to note Chairman HATFIELD's leadership in expanding the funding in the bill to fight prostate cancer.

I want to close by thanking my friend from Hawaii, Senator INOUYE, for his commitment to getting this bill through, and working to achieve a true bi-partisan consensus. Additionally, it was a great pleasure to work once again with the House subcommittee, led by Chairman BILL YOUNG, and the ranking member, JACK MURTHA.

This conference report is a compromise. We sought to accommodate the concerns of the Joint Chiefs, our colleagues, and the Secretary to the maximum extent possible. I ask all my colleagues understanding where we were not able to fully fund their concerns—we started this conference with a difference of $16 billion between the two bills. I believe the bill reflects a fair settlement between the House and Senate positions, and I urge adoption of the conference report by the Senate.

FISCAL YEAR 1997 DEPARTMENT OF DEFENSE CONFERENCE REPORT

Mr. LOTT. If I could get the attention of the distinguished chairman of the Defense Subcommittee, I would like to discuss a matter of great importance to our National Guard and Reserve forces.

Mr. STEVENS. I am happy to engage in a discussion with the distinguished majority leader in any matter dealing with enhancements of our Reserve component forces.

Mr. LOTT. As the chairman is well aware, the primary antitank missile system deployed by Reserve component forces is the 1970's vintage Dragon missile. While the Active forces are just now beginning the initial procurement and deployment of the vastly superior Javelin missile system, the Dragon will remain the mainstay in the Reserve components' inventory well past the turn of the century. Being that this is the case, the National Guard Bureau has identified the need to develop safety and capability improvements to the Dragon system to make National Guard units more compatible with Active component forces. As I have been briefed, this will be a two part process.

The first issue the National Guard Bureau wishes to address is safety modifications to the Dragon missile. A majority of the on-hand inventory has a safety flaw that has been identified and for which a solution has already been developed. In fact, the Marine Corps has already contracted to have their Dragon assets modified to resolve this safety shortfall. There is an urgent need to apply this modification to the Army's missile inventory.

Mr. STEVENS. The majority leader is well informed about this critical safety shortfall in the Dragon missile system and because of his leadership on this issue, the Senate-passed Defense appropriations bill included $4.9 million to complete safety modification on the entire inventory of National Guard Dragon missiles. I am also pleased to inform the leader that because of his interest and support, the conference report before the Senate today includes the full amount proposed in the Senate bill for the safety modifications.

Mr. LOTT. I am very pleased the Senate was able to prevail on this critical safety enhancement for our Reserve component forces and that these funds are included in this conference report. I would, however, like to also point out that there is a capability shortfall

identified by the National Guard that also need to be addressed by this body.

With the knowledge that the Dragon missile may remain in the Reserve components' inventory for as much as 10 more years, I believe it is imperative that the National Guard Bureau look at all possible modifications that can improve the range and lethality of the Dragon system. My staff and I have been briefed on a modification known as the Super Dragon that can potentially improve the current generation Dragon's capability to 95 percent of the Javelin missile system. The modification will significantly increase the Dragon's range, minimize its launch signature, double its speed, and give the Dragon missile the capability to defeat all known modern armor threats. Much of the development work has already been completed and with a modest investment of an additional $25 million, development, pre-production engineering and system qualification work can be completed in less than 16 months.

Mr. STEVENS. I am happy to inform my distinguished colleague from Mississippi that this conference report includes explicit directions to the Secretary of the Army to submit a report to the congressional defense committees, no later than April 1, 1997, detailing the requirement, cost, and schedule for the various Dragon upgrade options under consideration. Further, the conference report also includes $100 million of miscellaneous procurement funds under the direct control of the Chief of the Army National Guard, a portion of which, could be used for the Dragon development effort. If the report from the Secretary of the Army is supportive of the Dragon modification, I would expect the Chief of the National Guard Bureau to give immediate consideration to using miscellaneous procurement funds under his control to proceed with this development effort.

Mr. LOTT. I would like to thank the distinguished chairman for his support in this conference report for Dragon missile system improvements and look forward to the Secretary of the Army's report on this important issue to our National Guard forces.

ENVIRONMENTAL RESTORATION DATABASE FUNDING

Mr. SPECTOR. Mr. President, I would like to discuss with the distinguished chairman of the Defense Appropriations Subcommittee an important provision in the Defense Department appropriations conference report. In particular, I would like to confirm my understanding that the Department of the Air Force is expected to provide initial start-up funds in the amount of $72,000 for the establishment of a comprehensive database which incorporates data from current and future environmental investigations at the former Olmsted Air Force Base, to be located at Pennsylvania State University at Harrisburg, PA.

Mr. STEVENS. Mr. President, as the senior Senator from Pennsylvania knows, the conference report provides $123,000 over 5 years for establishing and maintaining the database, which is necessary for safety and hazard mitigation after the site is delisted from the national priority list of Superfund sites. I understand that the initial start-up costs are a disproportionate amount of the total $123,000 and would occur that the Department should provide at least $72,000 in fiscal year 1997.

Mr. SPECTOR. I thank my good friend, the chairman, and again express my appreciation for his effort on the Olmsted AFB cleanup issue.

FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS

Mr. GREGG. Mr. President, I would like to engage my colleague and chairman on the Defense Appropriations Subcommittee about the conference report's treatment of Defense's federally funded research and development centers, or FFRDC's.

These institutions are unique in their capabilities to provide the Defense Department (DOD) with specialized scientific, engineering, and analytical knowledge important to national security.

I am very proud that New England is the home of two of the premiere defense FFRDC's: the Lincoln Laboratory operated by the Massachusetts Institute of Technology, and the Mitre Corporation. Lincoln Lab is sponsored by the Air Force, and Mitre is sponsored by the Office of the Secretary of Defense.

I want to discuss an issue affecting the Lincoln Laboratory. Lincoln Laboratory has been a leader in the fields of ballistic missile defense, communications, space and surface surveillance, and advanced electronics.

For the benefit of our colleagues, and as guidance to the Defense Department, would the chairman be willing to elaborate on the conferees, action regarding defense FFRDC's?

Mr. STEVENS. I would be happy to highlight our action. In past years, the annual Defense Department appropriations acts have included a statutory ceiling on the total amount of funds which might be allocated by the Department for its 10 FFRDC's.

In response to DOD's request that it be allowed to manage overall FFRDC resources through staff years of technical effort instead of dollars, the conference agreement for fiscal year 1997 includes such a statutory limit.

The Department is required to control its staff years to maintain total FFRDC spending at the fiscal year 1996 level, but the conferees did agree that limits on staff years were a more appropriate management mechanism for fiscal year 1997. This was a reasonable compromise which tries to address DOD's concerns while at the same time not obscuring the budgetary impacts of funding FFRDC's, which has been a concern to the Defense Subcommittee.

Mr. GREGG. As the chairman knows, the use of a statutory dollar limitation during fiscal year 1996 inadvertently perturbed the funds made available to Lincoln Laboratory to acquire industry support for major development or demonstration activities. Would the chairman comment on this situation?

Mr. STEVENS. The problem faced by Lincoln Laboratory for fiscal year 1996 was caused not by the statutory dollar ceiling but by the Defense Department. DOD chose—unwisely in my view—to assign a lower priority to the lab's allocation and a higher priority to funding the studies and analyses FFRDC's. I disagreed with that decision. I wrote to the Department and urged it to assign a much higher priority to the Lincoln Laboratory programs. The Department chose to do otherwise, and I regret its choice.

Mr. GREGG. Does the distinguished chairman believe that the conference agreement now before us eliminates this dilemma for Lincoln Laboratory for fiscal year 1997?

Mr. STEVENS. I certainly do. The limitation on staff years specifically does not apply to the funds needed by Lincoln Lab to acquire industry support for major system development or demonstrations. It is the conferees, understanding that these funds are used to contract with industry and are not used to expand staff years of technical effort at the laboratory.

Mr. GREGG. I thank the chairman for this clarification.

UNDERGRADUATE FLIGHT OFFICER TRAINING T-39N AIRCRAFT PROCUREMENT

Mr. BOND. Mr. President, I would like to engage my friend and distinguished chairman of the Defense Appropriations Subcommittee in a brief colloquy regarding section 8110 of the Defense Appropriations conference report now before the Senate.

Section 8110 governs the procurement by the Navy of T-39N aircraft to conduct undergraduate flight officer training. These aircraft currently are provided to the Navy under a services contract. The Navy needs to acquire these aircraft expeditiously in order to avoid a break in training, and procurement of the T-39N aircraft under the conditions outlined in this section is in the best interests of the Navy and of the taxpayers.

In this regard, I understand that some in the Navy need clarification about the conditions regarding this procurement contained in section 137 of the National Defense Authorization Act for fiscal year 1996 and in section 124 of the National Defense Authorization Act for fiscal year 1997.

I would like to provide this clarification by discussing the matter with the Defense Subcommittee chairman. Would the distinguished chairman agree with me that section 8110 states

clearly that the procurement of these T-39N aircraft should go forward "notwithstanding any other provision of law"?

Mr. STEVENS. I agree with my friend from Missouri.

Mr. BOND. Would the chairman also agree that these words were included to waive expressly any other statutory language regarding this issue, including sections 137 and 124 of the respective authorization acts? Would the chairman also agree that the conferees agreed that procurement of these T-39N aircraft for undergraduate flight officer training is important for our national security and should occur without further delay?

Mr. STEVENS. I agree with my colleagues on both statements.

Mr. BOND. Would the chairman agree further that the inclusion of this phrase should remove any doubt in any quarters about which aircraft should be procured and under what conditions they should be procured?

Mr. STEVENS. My colleague is correct. That was the objective of the conferees in including this language.

Mr. BOND. I thank my friend for his clarifying remarks.

ATTENTION DEFICIT DISORDER

Mr. KOHL. I would like to take a moment to discuss language included in the statement of the managers to the fiscal year 1997 Defense appropriations bill conference report relating to attention deficit disorder.

First, I want to thank the managers, the distinguished chairman of the Defense Appropriations Subcommittee, the Senator from Alaska [Mr. STEVENS] and the distinguished ranking member, the Senator from Hawaii [Mr. INOUYE] for their sensitivity in recognizing the importance of this issue. I also want to thank the Senator from Minnesota [Mr. GRAMS] for his work on this issue.

Attention Deficit Disorder [ADD] and Attention Deficit Hyperactivity Disorder [ADHD], are neurobiological disorders characterized by inattention, impulsivity, and hyperactivity. In the past it was believed that these were disorders that primarily affected children. More recently, however, experts have concluded that this is not true. As many as 40 percent of children with ADD or ADHD have functionally impairing symptoms which continue into adult life. This is especially true of young males.

As the managers noted, in some cases these disorders can make successful service difficult without some accommodations, especially for those who require the moderating influence of certain prescription pharmaceuticals, the use of which is prohibited by military regulations. It is important to note, however, that many individuals with ADD and ADHD serve successfully in the military and it is not our intention to bar or discourage individuals with ADD and ADHD from military service.

Mr. GRAMS. I want to second the comments of my colleague, the senior Senator from Wisconsin, and I, too, want to thank the distinguished senior Senators from Alaska and Hawaii for their work in ensuring that the conferees addressed the issue of attention deficit disorder and attention deficit hyperactivity disorder in the military before they completed action on the fiscal year 1997 Defense budget.

Unfortunately, it came to our attention that the services had no programs in place to educate key personnel about how to recognize and treat ADD/ADHD. We became aware of this deficiency through tragic circumstances. A constituent, Thomas Swenson of Marshfield, WI, had a son who was murdered while serving in the Navy. Aaron Swenson had ADHD. As Senator KOHL noted, in its severest form, this disorder can create a dramatic level of impulsivity, restlessness, and difficulty modulating responses to given situations. Aaron Swenson's parents believe that his ADHD—which he concealed at the time of his recruitment—made it difficult, if not impossible, for him to serve 6 years in the Navy's electronics school at the Great Lakes Naval Training Center. Further, they believe that Aaron's ADHD played a role in putting him in harm's way.

There is widespread public awareness of ADD/ADHD. Yet, after his many meetings with Navy officials—some of them very senior officials—Thomas Swenson concluded that the services have little knowledge of ADD. He subsequently met with both of us and urged us to do something to educate the services about the prevalence of ADD/ADHD among young adults, particularly as these disorders relate to potential recruits.

Thus, it is our hope that this language encourages the military services to do all they can to recognize, treat, and humanely deal with recruits and service members with ADD and ADHD.

Mr. STEVENS. I appreciate the work of the Senators from Wisconsin and Minnesota on this issue. As my colleagues are aware, the Defense Department has informed me that it has a familiarization program to help training instructors and health care professionals recognize and evaluate recruits with attention deficit disorder and attention deficit hyperactivity disorder at basic training bases. The conferees have encouraged the Department of Defense to continue this familiarization program so that personnel who deal with potential recruits and service members beyond basic training are able to recognize the characteristics and markers of these disorders.

Mr. KOHL. I welcome the comments of the senior Senator from Alaska. I understand that since we first approached the Defense Subcommittee about this issue that the Defense Department has agreed to meet with a prominent national organization, Children and Adults with Attention Deficit Disorders [CHADD] to discuss these issues further. I am glad that the Department of Defense is drawing on the expertise of organizations and national experts who already have extensive knowledge about ADD and ADHD. I encourage the services to do all they can to address the needs and ensure the success of persons with ADD and ADHD in the services.

COMBATING ILLEGAL IMMIGRATION: AN OPPORTUNITY TO MAKE A DIFFERENCE

Mr. KYL. Mr. President, today, we will pass legislation we hope will significantly reduce illegal immigration in this country.

We could have passed this bill in the Senate last week. Unfortunately, partisan politics almost derailed efforts of the Congress, and particularly the efforts of the chairman of the Immigration Subcommittee, ALAN SIMPSON, who, under extraordinary circumstances, has worked long and hard to produce a bipartisan, far-reaching immigration bill.

That is because, in the end, the Clinton administration threatened to veto either the omnibus appropriations bill—and shut down the Federal Government—or a stand-alone immigration bill unless some of our reforms were deleted from title 5 of the immigration conference report. It is interesting that the immigration conference report, with title 5 intact, passed the House last week with bipartisan support by a vote of 305-123. Notwithstanding this strong support, in order to ensure passage of this historic immigration measure, important provisions of title 5 have been deleted.

One of the most important provisions dropped from title 5 would have required that sponsors who bring their immigrant relatives into the United States earn 200 percent of poverty in order to bring in extended relatives or 140 percent of poverty when they sponsor their spouses or their minor children. Revised title 5 changed the income requirement for all sponsors to 125 percent of poverty. At that income level, the sponsor could already be participating in several welfare-related programs, including, but not limited to, food stamps, reduced school lunch, Medicaid for pregnant women and children under the age of 6, and the Women, Infants, and Children [WIC] program. In other words, the sponsors may well not be capable of supporting the immigrants they sponsor.

Another provision that was removed from title 5 would have clarified the definition of "public charge." Under the House-passed conference report, an immigrant could be deported—but would not necessarily be deported—if he or she received Federal public benefits for an aggregate of 12 months over a period of 7 years. That provision was dropped during Saturday's negotiations.

The House-passed conference report would have required that public housing authorities verify the status of individuals who obtain public housing benefits. Individuals would have had 3 months to verify their status with a public housing authority or they would be required to vacate the unit. Revised title 5 will give an illegal alien 18 months to vacate the housing unit. In addition, revised title 5 will now give discretionary authority to public housing authorities to determine whether or not they will verify if someone in this country has a legal right to federally-assisted housing. This doesn't make sense to me since, in my home State of Arizona, officials of the Maricopa County Housing Authority alone estimate that 40 percent of the people receiving housing assistance in the county are illegal aliens. In Maricopa County, there are 1,334 section 8 units and 917 units available. There are over 6,500 individuals on the waiting list there.

There are other provisions in title 5 that shouldn't have been dropped from the immigration conference report. It is my hope that in the future, partisan politics will play a smaller role than it did on Saturday in efforts to effectively reform our Nation's immigration laws.

Having said that, I do believe it would be a great disservice to the people of Arizona and the rest of the Nation if this illegal immigration conference report were not to pass the Congress during the 104th Congress.

In Arizona's Tucson sector alone, the U.S. Border Patrol has apprehended more than 300,000 illegal aliens this year. It is estimated that for every illegal immigrant arrested, four slip through undetected. These undetected entrants are costing Arizonans millions of dollars. In fact, the State of Arizona estimates that it spends over $200 million each year on the medical care, education, and incarceration of undocumented immigrants. That's about equal to what the State spends each year to run Arizona State University.

With this immigration bill, we have the opportunity to lift this financial burden off the States by forcing the Federal Government to take responsibility for reducing illegal immigration, and to reimburse States for many of the illegal immigration-related costs they incur.

Perhaps most importantly for Arizona, under the immigration conference report, our borders will be better secured. One of my amendments to the bill will increase the number of border patrol agents by 5,000 over 5 years, nearly doubling the current number of agents. An increased border patrol presence in Arizona will help cities and towns such as Nogales, Naco, and Douglas, which have experienced surges in illegal immigration and border-related crime.

The immigration bill will also require that the security features on the border-crossing card be improved to counter fraud. There will be new monetary and civil penalties for illegal entry. In addition, every illegal immigration apprehended will be fingerprinted. Preinspection at foreign airports of passenger bound for the U.S. will be increased. The bill creates a mandatory, expedited removal process for aliens arriving without proper documentation, except if they have a credible fear of persecution in their home countries. Penalties for alien smugglers will be increased and deportation of criminal aliens will be expedited.

In addition to beefing up our borders, the bill cracks down on those individuals who overstay their visas. Half of those who temporarily enter the country legally remain here illegally. The bill requires that an entry-exit control system be developed to track those individuals. Visas overstayers will also be ineligible to return to the U.S. for a number of years, depending on how long they overstayed their visas.

The immigration bill also provides for mandatory detention of most deportable, criminal aliens and requires that those aliens be deported within 90 days. The bill also authorize $150 million for the costs of detaining and removing deportable or inadmissible aliens and increases the number of detention spaces to 9,000 by the end of 1997.

Finally, this immigration bill will remove many of the incentives for illegal entry. The Immigration and Naturalization Service estimates that 10 percent of the workforce in Arizona is made up of illegal aliens. H.R. 2202 sets up three pilot projects, to be implemented in high illegal immigration States, that will determine the employment eligibility of workers and thereby reduce the number of illegal aliens trying to get U.S. jobs.

While I may well vote against the omnibus bill to which this legislation is attached and while I am very disappointed about the last minute changes to the immigration part of the bill, I nevertheless believe that part of the omnibus bill should be passed. I am confident that this legislation is the keystone we will build upon in the future.

HCFA

Mr. BOND. Mr. President, as we consider funding for the Health Care Financing Administration [HCFA], I would like to commend the conferees for including a reference in the Statement of Managers of the Conference to a demonstration program that will demonstrate and evaluate the best approaches for a community health care center to provide services through a health care network.

We are well aware of the tumultuous changes occurring in the health care field as managed care becomes more and more predominant. For those who are involved in the services of community health centers, whether as providers or patients, the uncertainty of the current health care landscape can be overwhelming. As health care networks are formed, community health centers can either participate in this phenomenon or risk being excluded from the networks. Exclusion is tantamount to severely limiting the patient's medical options, which is a repudiation of the centers' mission and mandate to serve the less advantaged among us.

One community health center in particular, with which I am familiar, is Swope Parkway Health Center in Kansas City, MO. Swope Parkway was founded in 1969 and serves about 35,000 patients each year as a federally qualified community health center. Its approach to health care is uniquely comprehensive, combining medical and behavioral health and social services, housing and economic development. Swope Parkway has decided to assure its patient continued quality health coverage by forming a health maintenance organization [HMO] and developing its own network of providers.

It is my understanding that Swope Parkway is one of the first—but in all likelihood not the last—federally qualified community health centers in the Nation to assume full risk and has formed a new HMO. Given the Federal funding that has been dedicated over the years to community health centers, it would seem logical in this time of transition to managed care to demonstrate various approaches for community health centers to determine and deliver the most cost-effective way to provide services and maintain the quality of care to low-income patients in urban settings.

Mr. President, I am pleased that the conferees are recommending that HCFA conduct such a demonstration as part of its Research, Demonstration, and Evaluation Program, and I strongly urge them to consider Swope Parkway Health Center as the site for this demonstration.

RYAN WHITE CARE ACT

Mr. LAUTENBERG. I would like to engage the chairman and ranking member of the Labor-HHS Subcommittee in a brief colloquy concerning pediatric AIDS demonstrations funded under title IV of the Ryan White CARE Act.

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

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

Mr. LAUTENBERG. I would first like to commend and thank the chairman and the ranking member for their work to ensure our Nation's continued strong commitment to our children and families tragically infected with HIV by providing a funding increase for

title IV of the Ryan White CARE Act. Title IV programs are designed to coordinate health care and assure that it is focused on families' needs and based in their communities. These programs are the providers of care to the majority of children, youth, and families with HIV/AIDS in our country, ensuring these families have access to the comprehensive array of services they need.

The original Senate report stated that a portion of the title IV funds should be used to provide peer-based training and technical assistance through national organizations that collaborate with projects to ensure development of innovative models of family centered and youth centered care; advanced provider training for pediatric, adolescent, and family HIV providers; coordination with research programs, and other technical assistance activities. Is it correct that the managers intend to continue support of national organizations providing training and technical assistance, including the National Pediatric and Family HIV Resource Center located within the University of Medicine and Dentistry of New Jersey in this legislation?

Mr. SPECTER. Yes, the Senator from New Jersey is correct. The committee intends that a majority of title IV funds be awarded to existing comprehensive HIV care projects. Title IV also supports national training and technical assistance centers that include: The National Pediatric and Family HIV Resource, the AIDs Policy Center for Children, Youth and Families, and the Institute for Family-Centered Care, all of which will be eligible to apply for funding in the coming fiscal year.

Mr. HARKIN. I concur with the chairman.

LAUTENBERG. I thank the chairman and ranking member for their support, and for their continued work in this very important component of our national HIV/AIDS strategy.

DOJ SECTION

Mrs. MURRAY. Mr. Chairman, this bill provides many tools with which we, as a nation, can fight crime and drugs. I would like to highlight one area about which many law enforcement officials of my home State of Washington have expressed growing concern: methamphetamines. The Department of Justice, working with other agencies, has developed a comprehensive approach to battling the use and manufacture of methamphetamines entitled "National Methamphetamine Strategy", April 1996. Mr. Chairman, I would like to highlight the managers' support for interagency and Federal, State, and local law enforcement cooperation in combating this growing menace. It is particularly important to involve the Environmental Protection Agency and other appropriate agencies to provide technical and financial assistance to State and local law enforcement as they remove hazardous chemicals and waste developed in clandestine methamphetamine laboratories.

Mr. HATFIELD. I agree, Senator MURRAY. We need a united front to reduce methamphetamine use and eradicate clandestine manufacturing facilities. The managers support a comprehensive, interagency strategy in which the Federal agencies work in partnership with State and local law enforcement to solve this problem.

Mrs. MURRAY. Thank you, Mr. Chairman. I look forward to working as a member of the Appropriations Committee—unfortunately, without you—next year to ensure a comprehensive approach is fully funded.

Mr. HOLLINGS. I want to thank Senator MURRAY for reminding us of the importance of combining resources and expertise to address not only methamphetamines, but all narcotics. Senator MURRAY has been and continues to be a leader in protecting and providing for children, families, and communities. In this bill, we have supported several programs that will assist us in reducing the threats posed by methamphetamines. Specifically, the Drug Enforcement Agency's budget has been increased by 23 percent from last year. The subcommittee looks forward to working with you on the fiscal year 1998 budget.

Mr. HOLLINGS. Mr. President, I note in the report on H.R. 3814 that our committee urged the Economic Development Administration [EDA] to consider applications for grant funding for several worthwhile economic development proposals throughout the country. These were not specifically repeated, however, in this Omnibus Appropriations conference report.

Mr. HATFIELD. That is correct. The committee listed nine such proposals on page 58 of the report.

Mr. HOLLINGS. I would like to make the Senator from Oregon, the chairman of the committee, aware of a particularly meritorious economic development project from my home State of South Carolina that was not listed in the report. The proposal calls for the renovation of the Main Street theatre in Conway, SC. Located in the town's historic downtown district, the theater has the potential to become a center for theatrical and economic activity.

I ask the Senator from Oregon if, in his opinion, the Conway project is similar to those listed in our committee report.

Mr. HATFIELD. It is, and it certainly appears to meet the same criteria for inclusion in the report.

Mr. HOLLINGS. That being the case, I ask the Senator that we deem the Conway project part of the committee's recommendation to the EDA.

Mr. HATFIELD. As the Senator knows, we cannot amend the report or statement of managers at this point, however, I speak for this side of the aisle in requesting that the EDA evaluate the Conway project in the same manner along with those listed in the report. Like the committee recommended projects, the Conway proposal should be given every consideration by the Economic Development Administration.

Mr. HOLLINGS. I agree, and thank the Chairman.

ASSISTANCE FOR VICTIMS OF HURRICANE FRAN

Mr. HELMS. Mr. President, in light of the estimated $5 billion in damage to homes, businesses and farms in North Carolina, it is imperative that critical Federal disaster relief efforts not be delayed, and I am deeply grateful to the distinguished chairman, Mr. HATFIELD, and the equally distinguished ranking member Mr. BYRD of the Appropriations Committee for their fine help in allocating adequate funds in this bill for disaster relief.

A tremendous amount of time was spent last week in working out the details of the disaster relief package. Needless to say, I was concerned about the prospect of disaster relief funds running out.

After extensive consultations last week, a total of nearly $400 million in new funds was provided for various programs to provide assistance to citizens affected by Hurricane Fran.

It is my understanding that existing unobligated funds are also available for programs within the Departments of Agriculture and Commerce, as well as FEMA and the Army Corps of Engineers, and I respectfully inquire of the chairman and the ranking member of the Appropriations Committee if they agree that more than $150 million in existing unobligated funds from these programs will be available for disaster relief for North Carolina victims of Hurricane Fran?

Mr. BYRD. I thank the Senator from North Carolina in bringing the Senate's attention to the plight of many Americans who have suffered from the fury of Hurricane Fran. I might remind Senators that this terrible storm swept over much of the eastern United States, including my own State of West Virginia, leaving a path of destruction to homes, businesses, and most tragically, injury and loss of life.

I am aware that the Senator from North Carolina has made a request to the Senate Committee on Appropriations for levels of assistance similar to and, in some cases, exceeding those submitted to Congress by the President. The agreement contained in the continuing resolution includes emergency supplemental appropriations of nearly $400 million in new budget authority for agencies of the Department of Agriculture, the U.S. Army Corps of Engineers, the Economic Development Administration, and the Small Business Administration to respond to the unmet needs for hurricane relief.

During negotiations with the administration, an agreement was reached to make available an additional $150 million in Federal assistance for relief from fiscal year 1996 unobligated funds. These amounts include $100 million provided by the Federal Emergency Management Agency to the Crops of Engineers. In addition, there are funds remaining at the Department of Agriculture for debris removal, utility repair, and emergency loans to farmers and ranchers. In all, this brings the level of funds available for victims of Hurricane Fran to more then $500 million which achieves the level included in the request by the Senator from North Carolina.

Mr. HELMS. I thank the Senator from West Virginia. Is this the same understanding of the Senator from Oregon, the chairman of the Senate Appropriations Committee?

Mr. HATFIELD. Yes, this is my understanding.

Mr. HELMS. I thank the Senators from West Virginia and Oregon for this explanation. In addition to these funding levels, have any other actions been taken to eliminate obstacles that may affect the availability of assistance to North Carolinians?

Mr. BYRD. The Senator from North Carolina may be referring to a restriction of assistance to landowners requesting assistance from the Department of Agriculture for debris removal. Normally, landowners are ineligible for this assistance if their lands had received debris removal assistance in 2 of the previous 25 years. I have personally made an inquiry with the Department of Agriculture relating to this restriction as it affects victims of Hurricane Fran. I am glad to report that earlier this month, the Department of Agriculture has taken administrative action to recognize the extraordinary damage caused by Hurricane Fran and provide conditional waivers to my State of West Virginia, along with the States of Virginia and North Carolina.

The announcement by the Department of Agriculture states in part:

> Based on the uncommon severity and extent of damage caused by Hurricane Fran, the provisions prohibiting eligibility of land damaged 3 or more times (including the current disaster) in the last 25 years is waived in counties designated as disaster areas by the President or Secretary.

Mr. HELMS. Again, I thank the Senators from West Virginia and Oregon for making clear the agreement relating to assistance for victims of Hurricane Fran in my State and other States.

PRINTING ERROR

Mr. SHELBY. Mr. President, I will not take much time of the Senate, because time is short. There is no doubt that questions will arise with regard to this bill. Questions will arise regarding intent. I want to take this time to ensure that a printing error in the Treasury portion of the bill does not cause any confusion. The manager's statement regarding the Internal Revenue Service Tax Modernization System [TSM] Request For Proposal [RFP] addressed on page H12010 of Saturday's RECORD uses two dates: July 31, 1997 and July 31, 1999. July 31, 1997 is the date.

Mr. President there may be other errors, but I have not found them. The Government Printing Office has done an exceptional job in producing a lengthy and complex document in a very short time.

FCC RELOCATION

Mr. INHOFE. Mr. President, I would like to enter into a brief colloquy with the distinguished chairman of the Treasury, Postal Service Appropriations Subcommittee, Senator SHELBY, concerning funding for the proposed relocation of the Federal Communications Commission [FCC]. Mr. Chairman, the Senate version of the fiscal year 1997 Treasury, Postal appropriations bill contained a provision that would allow the Administrator of the General Services Administration [GSA] to pay a portion of the costs associated with a proposed relocation of the FCC. It this correct?

Mr. SHELBY. The Senator is correct. At the request of GSA this provision was included in the committee report accompanying the fiscal year 1997 Treasury, Postal appropriations bill. During floor consideration of the bill, this provision was converted to statutory language.

Mr. INHOFE. It is my understanding that this provision has been deleted from the omnibus bill before us today.

Mr. SHELBY. That is correct. Several members have raised objections to this provision for a variety of reasons, and as a result, we have specifically not included it in this omnibus bill.

Mr. INHOFE. I thank the Chairman. I have recently become aware of the large costs associated with this proposal—more than $40 million in upfront moving costs and an expensive lease rate—and I think the Congress should give this issue a much more careful review before it proceeds any further. As I understand it, the proposal calls for the FCC to nearly double the amount of space it occupies at the very time Congress is considering legislation to reduce the size of the agency. Am I correct, Mr. Chairman, that by specifically deleting the language allowing the GSA Administrator to pay for the relocation of the FCC, that is intended that the GSA Administrator specifically not be authorized to provide any funding for the proposed FCC relocation?

Mr. SHELBY. That is correct. The GSA should not use funds appropriated to it to facilitate the move. Since the Commerce Appropriations Subcommittee denied requested funding for the relocation, the proposed move should not go forward until Congress has more closely examined the proposal. I would like to work with the gentleman from Oklahoma and the relevant Senate committees to fully understand whether the proposed relocations are justified and if so, how we might go about reducing costs associated with the plan. We should take a close look at these issues in the next Congress. Until we've had the time to closely examine these issues, however, I do not believe the proposed relocation should go forward. Accordingly, we did not include language allowing GSA to fund the proposed move and they should not use any of the resources provided to them for that purpose.

Mr. INHOFE. I thank the Chairman and I look forward to working with him in the next Congress on this issue.

AIRCRAFT MAINTENANCE TAX COLLOQUY

Mr. NICKLES. Mr. President, I rise to bring to my colleagues' attention a new and hidden tax being imposed by the IRS on American air carriers, and those who travel or ship cargo by aircraft. Ignoring congressional intent, as codified in sections 162 and 232 of the Internal Revenue Code, the IRS is reversing its policy of accepting the longstanding industry practice of expense deductions of aircraft inspection, maintenance, and repair required by the Federal Aviation Administration.

This IRS change in tax treatment of air carriers constitutes a tax penalty on air safety.

This new and hidden tax penalty on air safety is no small matter. When an airline takes delivery of an aircraft, before the FAA will issue a certificate of airworthiness allowing that plane to fly, the carrier must provide the FAA with a suitable plan for ongoing maintenance and repair.

So here, on one hand, we have one agency of the Federal Government, the FAA, working hand in hand with the industry to ensure and to enhance the public safety for air travelers. But at the same time, a second agency, the IRS, is attempting to impose a tax penalty on the cost of ensuring that very safety.

Mr. FORD. May I inquire of my colleague from Oklahoma, who has told us that the IRS is changing its policy and thereby imposing a tax penalty on airline safety. How is that possible? How can the IRS put this tax penalty on aircraft safety?

Mr. NICKLES. I will inform my distinguished colleague from Kentucky that he is exactly correct. Section 162 of the Internal Revenue Code provides that the cost of maintenance and repairs to keep property in an ordinarily efficient operating condition is deductible in the year incurred. Only maintenance which either materially adds to the value or substantially prolongs the useful life of the property or adapts the property to a new or different use is required to be capitalized. Under this

test, aircraft maintenance and repair costs are deductible because such maintenance and repair does not materially increase the value or extend the useful life of the aircraft.

I will answer the distinguished bill manager. Ignoring economic reality and logic, the IRS is reversing its policy of accepting the longstanding industry practice of deducting the cost of aircraft maintenance in the year incurred. The IRS's new position that these repairs should be capitalized and depreciated over a period of years assumes that the economic life of an asset should be calculated on the assumption that no appropriate maintenance—including Government-mandated safety maintenance—will be performed.

Mr. FORD. I would add to my colleague from Oklahoma's remarks that the IRS position defies common sense. Requiring airlines to capitalize the cost of inspection and repairs in compliance with FAA safety regulations that merely maintain the normal operating condition and useful life of the aircraft would be like requiring a taxicab company to capitalize the cost of oil changes on its cabs because an oil change extends the useful life of the engine.

It simply does not make any sense. The U.S. airline industry has the best safety record in the world. As the ranking member of the Subcommittee on Aviation, I know first hand how hard this body and other Federal agencies have worked to encourage and help maintain and improve that enviable safety record.

It seems to me, that the IRS is working at cross purposes with its sister agencies and the Congress.

Mr. NICKLES. I agree with my colleague. However, I would not put it quite so delicately. I believe that the IRS is clearly overstepping its authority and ignoring clear congressional direction and intent as provided by the Internal Revenue Code. This tax penalty on aircraft safety is not only wrong in substance, the process by which the IRS is adopting this new policy is also flawed. In reversing its historic practice of accepting the characterization of aircraft maintenance and repair cost as deductible, the IRS is effectively promulgating a major regulation. As I understand it, there has been no notice of proposed rulemaking and there is at this time no coordinated issue paper. Instead, the IRS is challenging taxpayers who can least afford to protect their interest against the IRS in court. In other words, the IRS is selectively enforcing this new rule on a case-by-case basis hoping to develop a new body of regulation, without affording taxpayers of the protections provided by the normal rulemaking process.

If the IRS wants to change their policy and the industry practice, the IRS should use the rulemaking process. A change in IRS's policy of this magnitude clearly needs to be addressed through full notice and comment protections provided in the Administrative Procedures Act. The IRS's current process denies stakeholders the opportunity to comment before the tax change is finalized. In addition, I would like to send a clear message to the IRS that general application of this reversal of longstanding tax policy on aircraft maintenance costs would be a rule for purposes of the Congressional Review Act. IRS must be prepared to defend both their decision and their decisionmaking process before this body under the new congressional review provisions of chapter 8 of title 5, United States Code.

Mr. THOMAS. Can the chairman of the Senate Appropriations Subcommittee on the Treasury Postal Service tell me why the Thomas amendment, which passed the Senate by a bipartisan vote of 59 to 39, is not included in this omnibus appropriations bill? As you know, my amendment would have prohibited OMB from expending funds to implement any policy that permits any Federal agency to provide commercial goods and services to other government agencies, unless a cost comparison determines that government agency performance is more cost effective than the private sector.

Mr. SHELBY. The conferees believe existing law, particularly the Economy Act and the Intergovernmental Cooperation Act, address this issue.

Mr. THOMAS. However, hearings by the Senate Committee on Governmental Affairs and House Committee on Small Business have demonstrated that administration implementation of these statutes have failed to eliminate Government competition with the private sector and recent OMB action has been interpreted as encouraging agencies to market their services to other Federal, State and local government entities. Does the chairman of the Senate Governmental Affairs Committee agree with this conclusion?

Mr. STEVENS. That is correct. My committee held a hearing on September 24, 1996, and found questionable use and minimal cost analysis of interagency agreements. I was a cosponsor of the Thomas amendment and was disappointed to see that it was not included in the bill.

Mr. THOMAS. Is it the subcommittee Chairman's intent that OMB should promptly issue new administrative policy and process to clarify and remedy this matter so no Federal organization unfairly competes with the private sector, particularly small business?

Mr. SHELBY. Yes, that is the subcommittee's intent. As a cosponsor of Senator THOMAS' bill, S. 1724, the Freedom From Government Competition Act, and a supporter of the Thomas amendment, I am deeply concerned about this issue and look forward to OMB revising this policy.

IMMIGRATION REFORM

Mr. ABRAHAM. Mr. President, I rise in support of the illegal immigration reform bill as it has emerged from conference.

At the outset, I want to applaud the fact that, after considerable debate, this Congress has chosen to separate the issues of illegal and legal immigration. We should not lump legal immigrants, who play by the rules, together with illegal immigrants, who break them. Moreover, in my judgment, the best way to preserve our tradition of legal immigration is to address the public's concerns about illegal immigration. That is part of the reason why I support the bill before us today.

I would also like to applaud the changes recently made to the bill's income requirements for persons who wish to sponsor an immigrant. As reported out of conference, section 551 of the bill would have required individuals to earn at least 140 percent of the poverty line to sponsor a spouse or minor child, and to earn at least 200 percent of the poverty line to sponsor any other immigrant—for example, a parent. The effect of this provision would have been to block many middle-class Americans from sponsoring their close relatives.

Section 551 has been revised, however, to provide that an individual who wishes to sponsor an immigrant must either earn at least 125 percent of the poverty line or obtain a cosigner who earns that much. I strongly support this change, as the revised section 551 arguably provides sponsors with more flexibility than does current law.

Nevertheless, I would like to outline a number of my concerns with this bill.

To begin with, Mr. President, I am concerned about the verification pilot projects included in this bill. These projects constitute the first steps toward a National Identification System.

This legislation mandates three pilot projects of 4-year duration.

Now, as it stands these tentative steps are reversible. We have basically postponed the day of reckoning on this issue for 4 years. But this is an issue that I believe does not warrant field study.

Americans should not be subjected to a national identification system, period. Any such system will put people's jobs, property, and rights at risk of bureaucratic incompetence and abuse for no good reason. We can solve our problems without such a system, and that is what we must do to preserve our traditions of individual liberty.

In addition, I am concerned about this legislation's provisions on federalized documents.

The bill would bar Federal agencies from accepting birth certificates and drivers' licenses that do not meet new Federal standards.

This will force States to conform to Federal standards in issuing these documents, because States' citizens will want to be able to use them for Federal purposes.

It is an intrusion into an area properly subject to State control and another step toward a national identification system. It is unnecessary and it should not be undertaken.

Mr. President, I also have reservations concerning the bill's provisions on the deportability of criminal aliens. If these provisions are adopted, they will significantly weaken many of the important reforms this Congress adopted last session in the Anti-terrorism and Effective Death Penalty Act to facilitate deportation of criminal aliens.

As I have made clear throughout consideration of the immigration bill, I draw a sharp distinction between immigrants who come to this country to make better lives for themselves and those who come to break our laws and prey upon our citizens.

I have made no secret of my strong concerns about the conference report's repeal of important provision this Congress enacted into law in the Anti-terrorism Act last spring. Along with my colleague Senator D'AMATO, I have sent a letter to the immigration conferees outlining these concerns, which I would like briefly to mention here.

First the draft conference report unconditionally restores immigration judges' ability to grant so-called hardship or section 212(c) waivers to large categories of criminals who have committed serious felonies. When Congress enacted section 212(c) in 1952 as part of the Immigration and Nationality Act, it made clear that it was to apply only to those cases where extenuating circumstances clearly require such action.

Unfortunately, unelected and irresponsible immigration judges have completely and permanently ended deportation proceedings against thousands of convicted felons under this provision.

The Anti-terrorism Act corrected this outrage by barring individuals from using section 212(c) if they had been convicted of aggravated felonies, firearms, and narcotics crimes, or repeated serious offenses.

But now the conference report would restore these waivers for all criminal aliens other than aggravated felons. Repeat offenders, illegal firearms, and narcotics dealers and, most shocking of all, terrorists, all would now be able to have deportation proceedings against themselves terminated.

And, even in those cases when a waiver is not granted, the request itself will delay the deportation process and make it harder to detain criminal aliens pending deportation. That means that more criminal aliens will be released and will never be found again to be deported.

Why has this pernicious invitation to immigration judges to abuse their power been restored? I have heard no explanation. Yet, if it is because my colleagues now believe that these judges can be trusted not to abuse their discretion recent experience shows otherwise.

Even now, with section 212(c) eliminated by the Anti-terrorism Act, some immigration judges are granting the relief for criminal aliens who are in exclusion proceedings.

This plainly defies the clear meaning of the statute. The Anti-terrorism Act applies to aliens who are deportable for having committed certain crimes. It contains no reference to any proceedings in which the immigrant might be engaged, be they exclusion or deportation proceedings. The choice of proceedings is irrelevant. It is the commission of proscribed felonies on American soil that dictates the criminal alien's removal.

Fortunately, by establishing a unified system for removing aliens who do not comply with our laws, the conference report eliminates the availability of this particular misconstruction. But its restoration to the same immigration judges who devised this misconstruction of the authority to grant these waivers to large classes of criminals is simply incomprehensible.

Removal of these felons will be made even more difficult under the conference report because the bill significantly weakens the Anti-terrorism Act's requirements relating to the detention of criminal aliens. Under that act the Attorney General was required to detain all criminal aliens who have committed certain serious crimes, pending deportation.

The conference report would allow the Attorney General to release large categories of these individuals, on certifying that insufficient space exists to detain them, for 2 full years.

Again, the question is why? The Justice Department has not stated in any formal communication to Congress that there is currently or will be in the near future insufficient detention space to detain these and other dangerous individuals. Indeed, the Department not only failed to volunteer that it had any such problem, it made no such statement even in response to a letter asking for any concerns the Department might have about the Anti-terrorism Act's criminal aliens provisions. The closest the Department came was to suggest that it was theoretically possible that such a shortage might develop at some point.

Such hypothetical concerns are no reason at all to grant the Attorney General the authority to release thousands of convicted criminals back into the population, to prey on our people and perhaps never be caught again, let alone deported. If the Attorney General needs that authority because the Immigration and Naturalization Service projects an immediate shortage of detention space, the Department knows how to ask for it. If it did, we could then assess the plausibility of the projection, as well as whether the matter could be better addressed by providing additional detention space instead. We also could ask why no request for additional space had been forthcoming.

The conference report's decision to grant this unilateral release authority without even the justification that the Department, albeit late in the day, has said it needs to have that authority on account of an imminent shortage, is frankly incomprehensible to me.

As I believe is clear, Mr. President, I have some rather serious problems with this legislation. However, we face a more serious problem, for which this legislation, even with its flaws, is needed.

I am speaking, of course, of the problem of illegal immigration. This bill contains a number of provisions that I believe are crucial to our fight to bring illegal immigration under control.

For example, the bill includes the Kyl-Abraham amendment adopted in committee. This amendment will increase by 1,000 the number of Border Patrol agents in each of the next 5 fiscal years (1997–2001).

The bill also would sharply increase penalties for alien smuggling and document fraud.

In addition, the bill includes a revised form of an Abraham amendment to impose stiff sanctions on visa-overstayers, who make up fully one-half of the illegal aliens in this country.

I regret that the "good cause" exception in my amendment was omitted from final bill. But visa-overstayers must be punished like anyone else who breaks the rules.

Finally, this legislation makes those who sponsor aliens into the country legally responsible for their support, and allows the Government to collect reimbursement for any welfare moneys spent.

In sum, Mr. President, I am concerned that identification provisions in this legislation are leading us on a path away from America's well-worn road of personal liberty toward a bureaucratic nightmare. And I am worried that this bill will allow too many criminals to stay in this country.

But we are in the midst of a serious conflict. We cannot allow law-breakers into our country. And that is exactly what an illegal immigrant is: someone who willingly and knowingly flouts our laws.

This legislation makes needed reforms to our immigration system so that we may deal more efficiently with these lawbreakers. To my mind this is an important step toward a more fair and open immigration system.

SEC. 343. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTHCARE WORKERS

Mr. SPECTER. Mr. President, I would appreciate it if Senator SIMPSON would clarify the intent of a provision in the conference report on H.R. 2202, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which is now Division C of H.R. 3610, the Department of Defense Appropriations Act, 1997. I am interested in the intent of section 343 with regard to the establishment of a procedure for the approval of organizations to prescreen foreign healthcare workers.

Mr. SIMPSON. Mr. President, it is Congress' intent that the Attorney General, in consultation with the Secretary of Health and Human Services, shall establish a procedure for the review and approval of credentialing organizations equivalent to the Commission on Graduates of Foreign Nursing Schools for the purpose of prescreening aliens seeking to enter the United States for employment as healthcare workers. It is our intent that the Attorney General and the Secretary of Health and Human Services will actively review entities that petition to perform this prescreening and approve those that qualify.

HOMESTEAD, FL'S EDA PROJECT

Mr. MACK. Mr. President, I would like to engage the distinguished chairman of the Commerce, Justice, State, and Judiciary Appropriations Subcommittee in a colloquy concerning an economic development project of great significance to South Dade County, FL.

Mr. GREGG. I would be happy to engage the Senator from Florida in a colloquy.

Mr. MACK. Mr. President, my colleagues will remember that in 1992, Hurricane Andrew, one of the worst natural disasters in our Nation's history, struck the city of Homestead and South Dade County, FL with terrible fury. Today, 4 years later, the physical devastation to the community can still be seen. The residents of the area continue to experience severe economic hardship due to the destruction of homes and businesses, the loss of income and tax revenue, and the dislocation of residents. I dare say that there are few places in the country that deserve economic development assistance more than Homestead/South Dade.

In recent years, the city of Homestead has brought forward a public/private partnership project which promises to become a significant economic development engine for the community. The project is a 60,000 square foot motor sports exhibition and education facility to be located at the existing South Dade/Homestead Motorsports Complex. This project is expected to attract more than half a million visitors per year, generate considerable tax revenue, and create hundreds of new jobs.

The city of Homestead will shortly approach the Economic Development Administration to request an economic development assistance grant which will be matched equally by State and private contributions.

Mr. President, I strongly support this project which I believe will build upon the economic development success of the Motorsports Complex. This hard-hit community is doing the right thing in putting together public-private partnerships to share the cost burden of such economic development projects. The proposal to EDA for fiscal year 1997 funds deserves favorable consideration, and I am hopeful that the chairman of the Commerce, Justice, State, and Judiciary Subcommittee will lend his support, as well, to this worthy project.

Mr. GREGG. Mr. President, I would say to the Senator from Florida that I am well aware of the devastation experienced in Homestead and South Dade and the work he has done to revitalize the community. The need for further economic development assistance in the area is abundantly clear. I would, therefore, be happy to work with the Senator in bringing the city of Homestead's proposal to the attention of EDA and doing what I can to see that the proposal for funding receives fair consideration.

Mr. LEAHY. Mr. President, one of the most egregious differences between the immigration bill passed by the Senate many months ago and the bill now thrust on us for final passage is the permanent and nationwide waiver of our environmental laws for border control activities.

Like most of the American public, I am fed up with attacks on our important environmental laws. Failing to gut the Endangered Species Act and the National Environmental Policy Act, some Members of Congress have resorted to backdoor stealth attacks on these laws. Now Republicans include a gratuitous attach on our wildlife and ecosystems through, of all things, an immigration bill.

The nationwide scope of the environmental waivers in the immigration bill reaches far and beyond the goals of strong immigration control. By exempting all road construction, bridge construction, and barrier construction along the entire U.S. border from the Endangered Species Act, the waiver will permanently weaken national and international wildlife conservation.

Like many provisions in the immigration bill, this provision was inserted during the Republican-only House-Senate conference, and now the bill grants a permanent and nationwide waiver of the National Environmental Policy Act, the fundamental charter of our environmental protection.

Claims that the Endangered Species Act or the National Environmental Policy Act delay or stop the INS from controlling illegal immigration are wholly unsubstantiated. These laws should not be waived or exempted without full congressional consideration, hearings and public debate, and need not be waived in these circumstances.

Simply put, the ESA requires all Federal agencies to avoid adverse impacts on endangered and threatened species. Immigration and Naturalization Service staff are not biology experts. When the INS makes plans to build a road through a remote border area on public lands they consult with the Fish and Wildlife Service biologists to ensure that their plans are ecologically sound. For instance, when INS wanted to build a border bridge in Texas, biologists asked them to minimize impact on nearby wetlands by lifting the bridge out of the flood plain 2 feet. That was all that it took.

Consultation with the Fish and Wildlife Service is painless—it usually costs little in time or money to the INS, but it can mean the difference between recovery and extinction for a border species like the Sonoran Pronghorn antelope or the ocelot, an endangered cat.

The Fish and Wildlife Service has consulted with Federal agencies over 195,000 times in the last 16 years. Only 0.05 percent of those projects have been withdrawn or canceled because of the ESA. The ESA is flexible enough to accommodate even emergency situations and Fish and Wildlife biologists can review an INS construction project in a matter of hours when necessary.

The National Environmental Policy Act, signed by President Nixon in 1969, requires INS to give taxpayers a chance to review and comment on the environmental impacts of INS projects. Republicans now want to shortchange citizen's opportunities to participate in decisionmaking affecting their communities. NEPA also requires INS to examine reasonable alternatives to a project before investing taxpayer funds.

It is also flexible enough to accommodate emergency situations. For example, Bureau of Land Management recently requested an expedited NEPA review to build roads and a helicopter landing pad near the border area. It seems that high illegal alien use and high forest fire risk required quick action. The NEPA review was completed within 24 hours and the road construction took place immediately.

In a September 16 letter, Janet Reno, Bruce Babbitt, and Katie McGinty stated their unequivocal opposition to these waivers in the immigration bill. They know, as I do, that granting future Attorneys General the ability to sidestep important environmental laws will mean disaster for our Nation's environmental integrity.

The administration is currently negotiating environmental agreements with Canada and Mexico, and the passage of these waivers could undermine the future of these agreements. How can we possibly expect Mexico to take

actions to protect their ecosystems on one side of the border when we so flagrantly disregard the laws protecting our own natural heritage?

I object to the immigration bill because it differs so wildly from the bill we passed earlier this year. The stealth environmental waivers in this bill are unnecessary, unjustified, and mean-spirited. They will harm our children's right to inherit an environmentally-sound nation and set a terrible precedent for environmental waivers.

DIVISION D

Mr. BOND. Mr. President, I rise today in support of the Small Business Programs Improvement Act of 1996, which has been incorporated as division D of the omnibus appropriations bill. The language of this bill comes includes the substitute amendment to H.R. 3719, which I offered with the ranking Democrat on the Committee on Small Business, Senator DALE BUMPERS. H.R. 3719 is a comprehensive bill that proposes to change numerous programs at the Small Business Administration, which are discussed in this statement. Most of the changes will go into effect on October 1, 1996.

ACCESS TO CAPITAL FOR SMALL BUSINESSES

Earlier this year, when the Clinton administration and the Small Business Administration submitted their fiscal year 1997 budget request, it was revealed that SBA's flagship loan programs had been experiencing considerably higher losses than had previously been revealed to the Congress. In the case of the 7(a) Guaranteed Business Loan Program, the credit subsidy rate, which is the calculation by OMB that projects losses from loans that are originated in fiscal year 1997, was increased from 1.06 percent to 2.68 percent, an increase of 150 percent. The losses facing 504 Development Company Loan Program are even greater, and the credit subsidy rate has increased from 0.57 percent to 6.85 percent, an increase of over 1,200 percent.

As chairman of the Committee on Small Business, I was alarmed by the size of these increases, which were so large as to threaten the future of both programs. These two programs, however, are critical to tens of thousands of small businesses, who each year have come to rely on the availability of Government guaranteed financing to assure them adequate access to capital. They provide a very important source of capital to startup small businesses and to established small business seeking to expand to create more jobs. Because of the great importance of these programs to small businesses, the Senate and House Committees on Small Business chose to make some fundamental changes in the programs in order that they can continue through fiscal year 1997.

504 DEVELOPMENT LOAN PROGRAM

With a credit subsidy rate of 6.85 percent in the fiscal year 1997 budget request—versus 0.57 percent in fiscal year 1996—Congress would need to appropriate over $220 million to fund fully the 504 loan program in fiscal year 1997. Although such an increased appropriation would not be possible, committee staff worked on a solution that would combine additional program fees and a modest appropriation. This legislation adds new fees to be paid by the lender, the development company and the borrower and will support a $2 billion program level in fiscal year 1997.

7(A) GUARANTEED BUSINESS LOAN PROGRAM

The legislation before us today includes a section calling for SBA to issue a regulation covering the sale of the unguaranteed portion of 7(a) loans by banks and Small Business Lending Companies [SBLC's]. Under current SBA regulations, only SBLC's are permitted to pool and sell the unguaranteed portion of 7(a) loans to outside investors. It is the intent of the bill to expand this authority to banks by directing SBA to promulgate new regulations requiring a uniform set of rules governing this transaction by banks and SBLC's. In addition, SBA is directed to set safety and soundness standards, including appropriate reserve requirements, to protect the taxpayers' exposure under this program.

Last year, when the Senate unanimously adopted S. 895, we agreed to lower the government's guarantee rate on most 7(a) loans to 75 percent. Our intention was to increase SBA lenders' exposure on each loan in order to focus the lenders' attention on the quality of their loan making activities. Although this section the bill will allow SBA lenders to reduce their exposure on these loans, it is our belief that SBA can craft sufficient safeguards to protect the Government's position while granting the lenders an opportunity to raise more capital which can be loaned to small businesses. When the Senate Committee on Small Business takes up the 3-year reauthorization of SBA early next year, it will be my plan for the committee to study closely the impact of the new SBA regulations that are to be adopted as a result of this bill.

SBA FINANCE PROGRAM IMPROVEMENTS

This legislation directs SBA to create an ongoing system of management information about its 7(a) Business Loan Program. In order for SBA to monitor the performance of this loan portfolio, which is greater than $25 billion, it is essential that SBA collect and evaluate, on an ongoing basis, facts about both good and bad loans. This legislation emphasizes the importance of this program and expands the data gathering requirement to include key underwriting experience on each loan.

In addition, the bill directs SBA to contract with a private firm to conduct a comprehensive study of the historical performance of the 7(a) Program. Further, it directs that specific attention be paid to the economic model used by OMB to calculate the credit subsidy rate. We concurred with the House Committee on Small Business in the need for this study.

STRENGTHENING 7(A) PROGRAM PERFORMANCE

Over the past 18 months, the Senate and House Committees on Small Business have seen time and again evidence that SBA has failed to liquidate failed 7(a) loans in a prompt and effective manner. The result has been greater program losses, which have driven up the credit subsidy rate and caused the need for high borrower and lender fees and a larger appropriation. On average, it takes SBA 2 years to liquidate a defaulted loan after SBA pays off the guarantee to the bank. On the other hand, it takes a commercial bank, on average, 6 months to liquidate a loan after it is placed in default.

The legislation takes a strong step to make improvements in SBA's performance in this area. SBA is directed to make better use of the expertise of its most experienced lenders who have been designated "preferred lenders" within the 7(a) program. Preferred lenders have the staff and ability to take on a greater share of the burden now carried by SBA and to increase recoveries for the government after a loan fails. In addition, the bill directs SBA to begin using its licensed "certified lenders" to undertake liquidation efforts when the certified lender is deemed to have the experience and capability to undertake liquidation efforts.

DISASTER LOAN SERVICING

This legislation directs SBA to undertake a demonstration program to have private sector loans servicing companies contract to service SBA's disaster home loan portfolio. In our analysis of this demonstration program, we concluded that a large sample of home loans would be necessary to conduct a fair and conclusive demonstration of the ability of the private sector to service these loans. Therefore, the bill directs that 30 percent of the disaster home loan portfolio be included in the demonstration program. It is our belief that with a sample this size, the private sector servicing companies will have a large enough pool of loans to create the economies of scale so their performance can be evaluated fairly. It is our expectation that SBA will be able to solicit bids on this contract within 90 days of passage of this bill, and the test can be underway during fiscal year 1997.

SMALL BUSINESS PROGRAM EXTENSIONS

This legislation would extend the STTR Program for 1 year. This program allows universities and small businesses that specialize in R&D to combine forces and receive modest R&D grants. The STTR program was created in 1992, when the SBIC program

was reauthorized and extended through fiscal year 2000. The purpose of our amendment is to extend the STTR program for 1 year, in order that the Committee on Small Business can take a closer look at the program next year when it takes up the 3 year reauthorization of SBA. It is my understanding the proponents of the STTR Program would like to see the program expanded, and it is my plan that the Committee on Small Business will consider this request and other program adjustments next year.

In addition, the legislation extends the Small Business Competitiveness Demonstration Program for 1 year. It is scheduled to terminate on September 30, 1996. The House-passed version of H.R. 3719 included a 4-year extension. It also included some program changes, and the supporters of the program have made additional recommendations to improve the program. There is sufficient support to keep the program alive for an additional year in order that both the Senate and House Committees on Small Business can have an opportunity to evaluate fully the impact of the program and to consider legislation to make a longer term extension with some program adjustments.

IMPROVEMENTS TO THE SMALL BUSINESS INVESTMENT COMPANY PROGRAM

Earlier this year, the Senate passed unanimously S. 1784, the Small Business Investment Company [SBIC] Improvement Act of 1996, which proposed numerous changes to the Small Business Investment Act of 1958 designed to improve, strengthen, and expand the availability of investment capital under SBA's SBIC Program. S. 1784 was considered thoroughly by the Senate Committee on Small Business. After the committee held a series of hearings on the need for improving the SBIC Program, thorough briefings were conducted for the staffs of each committee member to explain the program changes that were being recommended by committee staff, SBA, and outside organizations such as the National Association of Investment Companies [NAIC] and the National Association of Small Business Investment Companies [NASBIC].

Following the input from the above groups and others, I chaired a public hearing on a discussion draft of the bill prepared by the committee staff. After this hearing, interested parties, including SBA, NAIC, and NASBIC, were invited and participated in drafting proposed changes to the legislation for consideration by the committee staff as it prepared the final version of S. 1784.

After extensive public hearings and open meetings with all interested parties, the Senate Committee on Small Business met in a markup session, and recommended S. 1784 to the full Senate by a vote of 18 to 0.

Division D of the omnibus appropriations bill includes S. 1784, substantially in the form in which it passed the Senate. Prior to its inclusion in this bill, some inaccurate charges were made about the background and effect of S. 1784. In fact, officials from NAIC, who had participated in drafting S. 1784 and whose recommendations were included in the bill, found fault with the bill when Senator BUMPERS and I attempted to bring it to the Senate floor as an amendment to H.R. 3719, the Small Business Programs Improvement Act. Their objections to the bill which they helped draft and which had previously passed the Senate unanimously led one Senator to object to Senate consideration of S. 3719.

S. 1784 was written to place the SBIC Program on a sound, long-term footing. Historically, this program has been plagued by many abuses that have been well chronicled by the press. The purpose of the bill was to strengthen the rules and management of the SBIC Program, while allowing the program to substantially to meet the investment needs of America's small businesses. With the financial future of many small businesses depending on passage of this bill, we looked for ways to clear up the objections.

In an attempt to resolve this stalemate, I agreed to several changes in the Senate-passed S. 1784 to make it absolutely clear that financially sound specialized SBIC's would not be hurt by the terms of S. 1784. Still unable to proceed with consideration of H.R. 3719, we began to hear from SBIC's and special SBIC's about the importance of passing this legislation. Their comments revealed the importance of adopting the improvements to the SBIC Program that were contained in S. 1784, and I ask unanimous consent that a letter from Mr. A. Fred March, president of Ventures Opportunities Corp., a New York-based special SBIC, be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. President, last week as we approached the end of the 104th Congress, I decided to look for another avenue to insure that this important bill would become law. As part of this effort, I sought the support of the Senate leadership to incorporate S. 1784 in the omnibus appropriations bill. At the same time, JAN MEYERS, chair of the House Committee on Small Business, undertook a similar effort in the House of Representatives, and S. 1784 was included in the omnibus appropriations bill which passed the House of Representatives on Saturday, September 28, 1996.

This legislation builds on the improvements on the SBIC Program contained in the law passed by Congress in 1992 by making the following changes to reduce the risk of SBIC defaults and losses to the Federal Government:

First, increases the level of private capital needed to obtain an SBIC license from SBA.

Second, requires experienced and qualified management for all SBIC's.

Third, requires diversification between investors and the management team.

In addition, S. 1784 makes these important changes to the Small Business Investment Act to increase the availability of investment capital to small businesses:

First, increases fees paid by SBIC's which reduces the credit subsidy rate.

Second, eliminates the distinction between SBIC's and SSBIC's, while grandfathering successful SSBIC's into the new program.

Third, places a greater emphasis on SBIC investments in smaller enterprises or smaller small businesses.

In 1958, Congress first approved the Small Business Investment Act creating Small Business Investment Companies, which are private investment companies licensed by SBA, whose sole activity is to make investments in small businesses. An SBIC raises private capital which is matched by additional funds guaranteed by SBA. The private capital and SBA-guaranteed funds are invested by SBIC's in small businesses.

SBIC's fill a void that is not addressed by private venture capital firms, most of which are so large they are usually unwilling to make investments in smaller firms, which generally seek investments in the range of $500,000 to $2.5 million each. Since the beginning of the SBIC program, nearly $12 billion has been invested in approximately 77,000 small businesses. Some SBIC's make equity investments in small businesses, while others make long-term loans, which are frequently coupled with rights to purchase an equity interest in the company—sometimes called warrants. The lending-type or debenture SBIC's provide long-term financing that is generally not available from banks or private venture capital firms.

Today, there are 185 active regular SBIC's and 89 specialized SBIC's [SSBIC's] in the SBIC Program. SSBIC's invest only in minority owned and controlled businesses. Together, these SBIC's and SSBIC's have raised nearly $4 billion in private capital and have received $1.02 billion in SBA-guaranteed funds.

Today's SBIC Program has been shaped in large part by the Small Business Equity Enhancement Act of 1992. The genesis of this important legislation resulted from the hard work of SBA's Investment Capital Advisory Council, a public-private working group formed in 1991 to address the problems confronting the SBIC Program. The 1992 act produced the first

major change in the SBIC Program since its formation in 1958. It created the Participating Security Program, which incorporates some of the best practices of the private venture capital industry. The 1992 act came about in response to the persistence of my good friend and colleague from Arkansas, Senator BUMPERS, who as the chairman of the Committee on Small Business held a series of hearings focusing attention on the problems under the program. The result of the act was to strengthen the SBIC Program and to correct serious weaknesses that had been expected by well publicized problems of the past.

Since the 1992 act became law, more than 30 new participating security SBIC's with nearly $50 million in private capital have been licensed by SBA, and 17 new SBIC's with over $200 million of private capital have been licenses as debenture SBIC's.

There is a significant difference between the SBIC's licensed before the 1992 act and the SBIC's licensed under the most strict guidelines set forth under the 1992 act. While the 1992 act increased the minimum private capital threshold for licensing to $2.5 million for each debenture SBIC and $5 million for each new participating security SBIC, SBA has imposed even more strict standards in its regulations. Under the SBA rules, debenture SBIC's must have a minimum of $5 million in private capital and participating security SBIC's must have $10 million in private capital.

Since the 1992 act has created two distinct types of SBIC's, it allows for investments to be tailored to meet the needs of small businesses. For example, when a small business needs a loan and can meet projected interest payments, the traditional lending-type or debenture SBIC's are available to make debt investments. For small businesses that need non-interest-bearing investment capital, the participating security SBIC's can offer an equity-type investment which anticipates an extended period of time, such as 2 to 3 years, before the small business is expected to being repayment of this investment. In this latter case, interest payments are deferred until the investments begin to generate a positive return. Under the Participating Security Program, the Federal Government's return is not limited to repayment of principal and interest—it can also share in the profits of the SBIC.

During this Congress, I have chaired three hearings investigating the success and problems associated with the SBIC Program. Testimony before the Senate Committee on Small Business has been supportive and positive. Numerous small business entrepreneurs have testified about their inability to obtain investment capital from banks and other traditional investment sources, and SBIC's are frequently their only source of investment capital. Last year, Jerry Johnson, the chief executive office of Williams Brothers Lumber Co. located near Atlanta, testified that not one bank in the Atlanta area would speak with him about asset based lending. After a lengthy search, he and his partner turned to Allied Capital Corp., a Washington, D.C.-based SBIC. Within 60 days of their first contact with Allied Capital Corp., Mr. Johnson was able to conclude his financing arrangement. Being able to clear this financing hurdle with the help of an SBIC, Mr. Johnson's company has grown significantly, adding many new employees and increasing its tax base.

Often we hear about major success stories like Federal Express and the Callaway Golf Club Co. that received SBIC funding at critical times in their early growth stages. It is, however, far more likely that businesses like the Williams Brothers Lumber Co. will be typical beneficiaries of the SBIC Program. These are Main Street enterprises located across America who have looked to traditional money sources and been turned away. The SBIC Program is filling this niche—a large niche to say the least—that picks up where banks fear to tread and Wall Street is not interested because the investment size is too small. There are thousands of companies like Williams Brothers Lumber Co. across the country that need investment financing to support growth and new jobs and have nowhere to turn but to the SBIC Program to meet their demand for capital

During the past year, the Senate and House Committees on Small Business have received a great deal of information about the need to strengthen the SBIC Program. In July 1995, Patricia Cloherty, chair of SBA's private sector SBIC Reinvention Council, testified on the council's recommendation to strengthen and expand the program. In addition, last summer the National Association of Investment Companies forwarded to the Senate Committee on Small Business a copy of their recommendations to improve the SSBIC program, which was also submitted to SBA's SSBIC Advisory Council.

The involvement of the private sector in analyzing the performance of the SBIC program and the insight provided by these recommendations are commendable—and very helpful to this committee. In 1995, the SBIC Reinvention Council recommended that new fees be imposed to lower the credit subsidy rate so that the program can provide a significant increase in leverage to licensed SBIC's. It also recommended certain administrative changes to improve the management and operations of the SBIC Program.

The National Association of Investment Companies [NAIC], which represents SSBIC's, also recommended in 1995 that all statutory and regulatory distinctions between SBIC's and SSBIC's be eliminated, including the deletion of all references to social or economic disadvantage from the Small Business Investment Act. NAIC proposed creating a single, combined SBIC Program that would retain an important focus on investments in small business at the smaller end of the eligible size standards. They recommended sensible improvements to make more investment capital available to more small businesses and proposed to remove the current restrictions that prohibit Specialized SBIC's from investing in companies not owned by socially or economically disadvantaged persons. This legislation includes many of their recommendations.

NEW FEES FOR SBIC'S

The President's fiscal year 1997 budget request included a recommendation that fees paid by SBIC's be increased to finance a significant reduction in the credit subsidy rate. The Office of Management and Budget, recognizing the positive effect of some of the regulatory changes already implemented by SBA, now is using a lower projected default rate, thereby reducing the credit subsidy rate for debenture and participating security licensees under the SBIC Program.

The administration's recommendation to lower the credit subsidy rate by increasing fees is similar to one made last year in their amended fiscal year 1996 budget request for the 7(a) Guaranteed Business Loan Program. Accompanying their request for a fee increase were statements by SBA about how well the 7(a) program was performing.

What happened following SBA's positive predictions for the 7(a) program has been alarming. Based in part on SBA's glowing report card on the 7(a) program, Congress passed legislation to raise fees and lower the subsidy rates of the program. The changes became law in October 1995, which is about the same time SBA and OMB were beginning to work on their most recent budget request which raises the 7(a) credit subsidy rate by 150 percent and the cost of the program by $180 million. This higher cost is the direct result of greater losses from loan defaults and lower recoveries from liquidations.

The Senate and House Committees on Small Business believe it is prudent for Congress to take steps so that we do not allow a repeat of the 7(a) problem with the SBIC Program. Based on the experience of last year, Congress should not approve any decrease in the credit subsidy rate through the increase of fees without taking some corresponding steps to strengthen the safety and soundness of the SBIC Program.

SBIC'S IN LIQUIDATION

In addition, evidence before the Committee on Small Business about the failure of SBA to maximize its recoveries from failed SBIC's is alarming. SBA

acknowledges there are assets with a value of approximately $500 million tied up with SBIC's in liquidation. To make this situation even more alarming, many of these failed SBIC's have been in liquidation for over 10 years, including one that was transferred into liquidation on January 5, 1967.

S. 1784 directs SBA to submit to the Senate and House Committees on Small Business, no later than January 15, 1996, a detailed plan to expedite the orderly liquidation of all licensee assets in liquidation. This plan should include a timetable for liquidating the liquidation portfolio of assets owned by SBA.

In addition, SBA needs to take a hard look at how it manages failed SBIC's that are in receivership. It is not a sufficient explanation for SBA to claim it is at the mercy of the court system in winding up the affairs of SBIC's in receivership. In each case, the court acts in response to SBA's petition, has named SBA the receiver, and SBA has retained independent contractors to act as principal agents for the receivership. These principal agents are paid hourly and appear to have little or no incentive to wind up the affairs of an SBIC. In fact, the opposite is true, and the real incentive appears to be to drag out the receivership as long as possible. Based on SBA replies to requests for information from the Committee on Small Business, we have learned that these principal receivers agents bill significant hours each year. In fiscal year 1995, one principal agent billed over 3,200 hours for one year, the equivalent of over 8 hours per day for 365 days. Other principal agents billed over 2,500 hours each for fiscal year 1995.

At the time of the committee's inquiry into these billing practices, SBA gave no indication that it felt they were unusual. It is clear to me that without incentives to complete action on these SBIC's in receivership, the current system used by SBA will allow these abuses to continue. Although the committee did not reach a consensus on my proposal to create an incentive based system to improve recoveries from SBIC's in receivership, we will continue to monitor SBA's performance closely in this area.

For several months starting late last year, the Senate Committee on Small Business worked on draft legislation to strengthen and enhance the SBIC Program. The small business investment company improvements section of this bill is the result. It incorporates recommendations from SBA's SBIC Reinvention Council, the National Association of Investment Companies, the National Association of Small Business Investment Companies, and the President's fiscal year 1997 budget request.

Legislation essentially equivalent to the SBIC provisions of this bill was approved by the Senate Committee on Small Business by a unanimous 18 to zero vote and later was passed unanimously by the full Senate. It makes substantial progress toward our goal of strengthening the SBIC Program, while allowing the program to expand, providing more investment capital to small businesses as the cost and risk to the Government declines. It was only after nearly 18 months of study and investigation that we were able to produce such a bill. It is sound legislation that improves the safety and soundness of the SBIC Program and makes more investment capital available to small businesses. And it accomplishes all of these goals while reducing the risk of loss to the Government.

Mr. President, this legislation is very important to small businesses across the United States and the millions of employees who work for these small companies. I urge all my colleagues in the Senate to vote "yes" on this landmark bill.

EXHIBIT NO. 1

VENTURE OPPORTUNITIES CORP.,
New York, NY, September 24, 1996.

DEAR CONGRESSMAN LAFALCE: Recently, I received a copy of a memo that you distributed to the Democratic members of the Small Business Committee urging them to oppose the SBIC plan set forth by Senator Bond. The reason for your opposition is its provision for the elimination of the distinction between SSBICs and SBICs, thereby melding the two programs and effectively converting 301(d) licensees into regular SBICs. As the president of Venture Opportunities Corporation, an SSBIC licensed for over 18 years, I firmly oppose your position and support Senator Bond's call for combining the two programs.

For the last several years, all SSBICs have been operating businesses without any clear understanding of the future of the industry. We have been attempting to establish and grow our businesses in spite of the pushing and pulling that has been all too evident in this most recent Congress. One think though, has been made very clear—all the incentives for making investments in minority-owned and controlled enterprises and maintaining our SSBIC licenses have been stripped from us. Subsidized debentures, which were the primary advantage for establishing and operating an SSBIC, were eliminated without any possibility of being reinstated. Leverage has been hard to come by. Regulations and new reporting requirements are excessive and work against any SSBIC trying to expand or raise fresh capital. Why do you think that, in spite of the tax advantages for rolling over investment profits into an SSBIC, not one investor of any size has invested in any of our companies? The answer lies in the fact that there is no true advantage to being an SSBIC and that the existing regulations and uncertain political environmental present clear disadvantages.

If SSBICs are not included in the mainstream SBIC program, we will cease to exist as a vehicle to make investments in the minority community anyway. No one will have any incentive to remain active in a dying program which offers no subsidies, little leverage, excessive regulation, and limited deal flow. By including us in the mainstream program, the additional investment opportunities will strengthen our companies without diminishing our commitment to make investments in the "disadvantaged" communities for which we were originally licensed.

I urge you to please look at the reality of the situation. What you are proposing is the worst of all worlds. I, too, am a Democrat who wants to help minority communities. I put my own money into this business over 18 years ago to set up a profitable investment business while, at the same time, helping "socially or economically disadvantaged" individuals create their own businesses. I have been successful. The results of your opposition to the current proposal, however, only serves to lock our company, and our fellow SSBICs, into a dying industry without any incentive to continue to make "minority investments." We have already faced the reality of the loss of our SSBIC advantages. At least allow us the freedom to become regular SBICs while continuing to remain true to ourselves and voluntarily make investments in the minority community.

Thank you for your time. I look forward to a satisfactory resolution of this issue.

Sincerely,

A. FRED MARCH,
President.

Mr. CHAFEE. Mr. President, I was pleased to see that the House of Representatives incorporated the Small Business Administration authorization bill into the omnibus appropriation bill. This is important legislation. Before we go to final passage of the appropriation bill, I wonder if I could get the distinguished chairman of the Small Business Committee, Senator BOND, to comment on a proposal I have, related to small business development centers.

Mr. BOND. I would be happy to.

Mr. CHAFFEE. I thank the Senator, and I will be brief. Very simply, my proposal would create a 1-year pilot program aimed at linking SBDC's with export assistance centers.

Right now, some 35 colleges and universities across the country have both an SBDC and an export assistance center on their campus. Bryant College in Rhode Island is one such facility. The folks up there have done a super job on behalf of our State's small businesses. But in no instance that I am aware of are two of these important facilities connected to each other. I think a lot of good could come out of taking that step. Therefore, my proposal would permit eligible SBDC's to do two things: one, hire export professionals to work on-site, and two, make the technological adjustments necessary to establish a computer link with an export assistance center.

Mr. BOND. If the Senator would yield for a question, is it his thought that such a proposal would make it easier for small business to start exporting their products overseas?

Mr. CHAFEE. Most definitely.

One of the key services offered by the export assistance centers is access to a system called the International Trade Data Network. The ITDN works as follows. A small businessperson will come into an export assistance center, anxious to learn how to export a particular product. And by logging on to this system, the individual can find out what countries are interested in that product with a just few simple keystrokes.

As I understand it, a small businessperson can even get information about potential contracts.

Unfortunately, under the contract arrangement, it is impossible to connect to that computer network at the SBDC. Instead, the individual must find the closest export assistance center, and develop a relationship with an entirely different staff, in order to learn what international trade opportunities might be available. The ITDN has proven to be a very successful tool for opening foreign trade markets. In my view, therefore, small businesses in Rhode Island and States across the country stand to benefit greatly from better access to it.

Now, my preference would have been to offer this proposal as an amendment to the SBA authorization bill. I understand, however, that the chairman and the members of the committee would like more time to mull over the idea before signing on to it. In that case, I wonder if the chairman would be willing to consider including the SBDC proposal in next year's bill?

Mr. BOND. As my friend from Rhode Island may know, the Senate Small Business Committee is scheduled to undertake a regular, 3-year authorization of our small business programs early next year. I long have been a strong supporter of efforts to increase American exports, particularly when it comes to small businesses. For this reason, I want to assure the Senator that the committee will take a hard look at this SBDC proposal as part of our review process. We would welcome his input at that time.

Mr. CHAFEE. I thank the Senator for his willingness to examine this matter further, and look forward to working with him on it. I yield the floor.

Mr. LAUTENBERG. Mr. President, I would like to clarify the intent of the chairman of the Small Business Committee with respect to language in division D of the omnibus appropriation bill, which incorporates the Senate substitute amendment to H.R. 3719 relating to the sale of the unguaranteed portion of loans made under the 7(a) program. It is my understanding that until the Small Business Administration issues a new, final regulation setting forth the terms and conditions under which the unguaranteed portion of 7(a) loans may be permitted, or until March 31, 1997, whichever is earlier, lenders currently eligible to securitize may continue to do so under the existing regulation.

Mr. BOND. My colleague from new Jersey is correct. The securitization language contained in this legislation in no way preempts the existing SBA regulations that currently apply to participants in the 7(a) program on the sale of the unguaranteed portion of such loans until SBA finalizes a new regulation on this matter or until March 31, 1997, whichever occurs first.

Mr. LAUTENBERG. I thank my friend from Missouri and I would like to commend him for crafting another bipartisan small business bill. It is my hope that we will work closely together next year to provide guidance from the Small Business Committee to SBA as they are formulating their new securitization regulation.

RESTORATION OF THE ELWHA RIVER ECOSYSTEM

Mrs. MURRAY. Mr. President, section 114 of the Interior portion of this omnibus appropriations bill addresses the Elwha River Ecosystem and Fisheries Restoration Act, Public Law 102–495. I would like to reflect on some of the legislative history of that section.

While section 114 slightly amends the Elwha Act, it also sustains and confirms the Elwha Act itself. The amendment simply provides for one new option in this restoration process: The State of Washington may purchase the dams for $2 after the Federal Government has bought them for $29.5 million from the current private owner.

Should the State wish to acquire two aging dams, it must enter into an agreement with the Secretary of the Interior to discharge all of the obligations of the Federal Government, as established in the Elwha Act. Although it is almost impossible to envision a basis on which the State might choose to purchase these projects, this amendment at least makes such a decision possible.

It is important to reiterate, the State may acquire the dams only if it agrees to remove the two dams, restore the fisheries, provide numerous tribal obligations, protect the local water quality, and do everything the Federal Government was committed to doing under the original Elwha Act. I specifically want to stress that the State must undertake all of the obligations of the Act, including section 3 (a), (c), and (d), as well as sections 4, 7, and 9.

In case my colleagues were not aware of the current State responsibilities for fisheries in Washington, the State manages fishery resources within State waters. It is required to manage these resources in a manner consistent with the Boldt decision regarding tribal treaty rights to fishery resources. The obligations under the Elwha Act are far more expansive.

I need to clarify a mistake made this weekend. Senator GORTON and my staff agreed Friday to report language that provided: "None of the requirements of the Elwha Act are changed unless the State elects to exercise its option to purchase and remove the projects." As a colloquy between Senator GORTON and myself at the end of the bill reflects, that is the intent of the managers.

This colloquy makes clear an implied intention of the amendment: If the State does not exercise its new option, then the Secretary and the United States remain fully obligated under this act to acquire the dams, remove them, restore the river's ecosystem and fisheries, and deal honorably with the tribes. Until such time as the binding agreement provided for in this amendment is offered by the State and approved by the Federal Government, the Federal Government must continue to carry out its responsibilities under the Elwha Act with all due speed.

I do not support the approach taken by this amendment. However, my solace lies in my belief that the State would not—and should not—accept this option. Restoration of the Elwha ecosystem is a Federal responsibility. It is on Federal land, in one of this nation's most amazing parks and rainforests, the Olympic National Park. Only the Federal Government is responsible, via its trust obligations, to the S'Klallam people who have sacrificed so much as others have destroyed an historic religious and cultural icon, the abundant salmon runs of the Elwha.

Despite reservations about this amendment, I am pleased with the true appropriations work done in this bill, that is allocation of funds to acquire these dams. I strongly support the $4 million appropriated for fiscal year 1997. The Congress provided the same amount last year. I look forward to working to ensure the next administration demonstrates its commitment to this project with a substantial increase in its budget request for this important fisheries restoration project.

The Elwha River and ecosystem are precious to the tribes, environmentalists, Olympic Peninsula communities, commercial and sport fishers, and other people throughout the region and country. This river system was one of the most productive salmon rearing and spawning resources in the Pacific Northwest. Today, those fisheries are devastated. I appreciate the nearly $300,000 allocated in this bill for emergency measures to provide some relief for species currently imperiled.

I am committed to working with Senator GORTON and the next administration in the 105th Congress to ensure the Elwha ecosystem is fully restored as soon as possible.

ELWHA ACT

Mrs. MURRAY. Mr. President, would the senior Senator from Washington yield for a question on the bill language amending the Elwha Act included in the Interior section of the omnibus appropriations bill?

Mr. GORTON. I will be happy to yield.

Mrs. MURRAY. Is it a correct interpretation of the language in section 114, that none of the requirements of the Elwha Act are changed if the State of Washington elects not to purchase the projects?

Mr. GORTON. The Senator is correct.

APPROPRIATIONS FOR CHILDREN

Mrs. MURRAY. Mr. President, I rise today to address my colleagues about a

matter that concerns the American public deeply—the well-being of their children.

I have come to the floor myself several times these past 2 years to talk about our children's future. Since January of last year, when the House voted to cut school lunches and other nutrition programs; to this past spring, when I reported on my children's forums in Washington State; to just a month ago, when the Senate finally voted to require hospitals to allow new mothers to spend at least 48 hours in the hospital when delivering a baby, I have been a frequent and avid speaker on issues affecting children and families.

I have always tried to present children's issues in three basic categories: Their health, their education, and their ability to contribute to society in the long term. In my view, those ideas are pretty straightforward: every child has a right to good health; every child has a right to an education; and every child has a right to grow up in strong, nurturing communities. The cycle is simple: a child who is healthy is able to learn; a learned child is able to participate in society; a society of contributing adults is able to uphold its responsibilities to the children. Again, and again, and again.

This has been a very strange 2 years for children's policy. There have been great victories, such as health insurance portability and mandatory maternity care. Threats have been turned aside, such as cuts in school lunches, jeopardizing Medicaid services for children, and elimination of the Safe and Drug-Free Schools Program. And there have been defeats—reductions in student loans and direct lending, and a radical welfare bill that leaves millions of poor children in limbo.

As we near the end of the 104th Congress, I would like to take a moment to explore some of the highs and lows for children, some of the accomplishments we have made that will help children, and some of the problems we still face, and which will require our continuing attention in the next Congress.

After much wrangling, the fiscal year 1997 Omnibus Appropriations Act continues our investment in young people's well-being in some important areas:

In infant health, the Healthy Start Program has made significant gains against infant mortality in several high-rate communities around the Nation. In spite of initial attempts to cut it, Healthy Start funding was increased from $75 million to $96 million. Healthy Start has proven itself across partisan lines by creating effective models for other communities. And, like many other children's health programs, it is very deserving of an increase.

Also, the maternal and child health services block grant was funded at $681 million. The block grant supports local communities in their efforts to provide many essential health services, including prenatal care, newborn screening, and care for children with disabilities.

Other health areas, such as funding for the National Institutes for Health, and funding for the Ryan White Act, and for AIDS research, also met at least minimum targets in the bill.

Head Start works toward the improvement of the health and education of needy youngsters. Arguably, this program has done more for young children in terms of getting them healthy and ready for school than any other. It demands to be retained and expanded. The level of $3.98 billion in this bill will allow the program to keep pace with inflation. This is good, but this will be an obvious program to expand next year.

In the area of education funding, once Head Start has readied children for school, we must make sure they stay on equal footing with their peers. One way to do this is to assure they have access to educational technology. If we do not continue to give students access to the technology of today, they will not be able to get or hold the jobs of tomorrow. I am glad the appropriations bill continues our investments in new education technology and technology challenge grants.

We have made other positive efforts this year, such as my legislation which will put surplus government computers in schools. But these efforts will be less effective unless we are also investing in new technology, including networking capability, new hardware and software, and teacher training that schools will need to succeed.

The Safe and Drug Free Schools Program also fares better under this bill than I had hoped. This program increased by $56 million, which pays for educational curriculum specifically designed to give students options to the violence and drug use we see young people combat daily in today's society. Every school district in the country gets some of this money, because there is no community in which drugs do not present a threat to the potential of young Americans.

Beyond technology, funding the School-to-Work Program is vital. School-to-Work shows students the connection between what they learn in the classroom and what they must know in the workplace. These programs have been funded at $400 million, which is a $50 million improvement over last year's level. There is no better investment we can make for the 75 percent of high school graduates who do not end up with a college degree.

When it comes to education, we too often forget adult students. In most areas of this bill, we were only able to hold the line, and to survive. But in at least one area that is supported by Members of both parties, we were able to provide a much-needed increase for adult basic education—adult literacy. The students here are some of the most heroic people in our country.

Many adults in this country are unable to read to their own children, or are faced with tests in the workplace that mean the difference between employment and unemployment. It is very difficult for these same adults to go to programs at their local community college, or run by a nonprofit organization, and learn to read. It is truly courageous. As they learn, they get better jobs, they provide better help to their children in school, and they contribute more to our society. This was a great next step; but especially with the welfare bill taking effect now and in the near future, we need to do more.

In areas of citizenship, one of our best investments is Americorps. Americorps builds on the best traditions of the Civilian Conservation Corps, the G.I. bill, and the Peace Corps, by rewarding people for working to improve their communities. It was eliminated in the House version of the VA-HUD bill, so I am glad to see that Americorps programs were returned to their 1996 levels. We should have new investments here, but at least we are continuing our investment.

There are still several areas of this Appropriations Act that do not meet the test of providing at least the minimum basic standards for all young people in this country.

In basic child health, child immunization funding is $20 million lower than the level necessary. To underfund such a vital area, when we have seen outbreaks of measles and other diseases in my State and around the Nation, is a move I do not understand and find troubling. We must move forward, and expand immunization to deal with the needs we know are out there. The prevention we provide, compared to the cost of treating the diseases we allow, is not only cost effective, but also the right thing to do. Additional appropriations would allow us to fund the infrastructure, education, and registries which would get immunizations to the underserved children who need them most.

On education, the huge task before us is in the area of teacher training. Goals 2000 was increased in this appropriations bill, but Eisenhower professional development activities were cut this year. If our schools succeed in the next century in teaching job and thinking skills to students, it will be because of our teachers.

Our current teaching corps is aging and many will soon be retiring. Research shows that for one teacher to learn one new skill that she or he can reproduce in the classroom, they need to spend several hours practicing that skill under supervision of a master teacher.

When I look at the investments we must make to allow young people to be

the best possible citizens in our communities, I see that the Senate has again made a mistake. The Summer Youth Employment Program is funded equal to 1996 funding, but here is one area where extra investment truly would pay off with results for our communities. Young people are always telling adults that they do not have anything to do, especially when school is out. Summer Youth Employment helps teach the skills of work and work attitudes that will reduce violence, and improve young people's confidence and self-control. Earlier versions of the bill would have meant 134,000 fewer jobs for young people this summer. When we are all working so hard to keep young people involved and interested in productive activities, this cut is absolutely the wrong thing to do.

Children and young people deserve their Senator's very best decision-making. I would argue that children and young people need our attention and best efforts more than any other group of people in our country. What we have done here in this Appropriations Act, is to reject the open assaults on children's programs we saw earlier in this Congress. In order to get beyond a survival level, to a place where we can say we are actually investing in the future, we must expand funding in preventive areas: in access to preventive health services, in the improvement of teacher training, and in the expansion of productive activities for youth.

This Congress has shown that it can muster the foresight and compassion it takes to deal with issues affecting children. This Congress has also made some decisions I fear may have disturbing effects on countless young people. I have worked hard during this Congress, as have others, to do the very best for all of our children. Let us build upon this fiscal year 1997 Appropriations Act, so our actions will be remembered well by this Nation's children when they are old enough to vote.

AMTRAK

Mr. LAUTENBERG. Mr. President, I am especially pleased with the additional funding included in this continuing resolution for Amtrak.

Funding for Amtrak's capital accounts has followed a very torturous path this year. The administration's budget request for fiscal year 1997 embodied its endorsement of the concept that Amtrak should strive for self-sufficiency—that it should be free of a Federal operating subsidy within the next 6 years.

The administration recognizes that the key to self sufficiency for the railroad is substantially increased investment in its capital plant—that a self sufficient Amtrak will require state-of-the-art, first-class, reliable equipment—clean stations-and modern, efficient service.

In its budget request for 1997, the administration called for a $232 million increase in funding for Amtrak's principle capital accounts.

Unfortunately, our House colleagues met this challenge with a transportation bill that singled out Amtrak for devastating cuts. The House-passed transportation appropriations bill slashed Amtrak capital funding by $145 million, more than 42 percent—providing zero for the Northeast Corridor Improvement Program—[NECIP].

Fortunately, thanks to the help and wisdom of Chairman HATFIELD and many of my colleagues, the Senate bill provided Amtrak an overall increase for these crucial capital accounts including the full $200 million requested by the President for NECIP.

While the conference agreement on the regular transportation appropriations bill was still a substantial improvement upon the House-passed bill, funding for NECIP ended up 42 percent below the President's request.

During conference on the regular fiscal year 1997 transportation bill, I stated I would seek additional funding for NECIP in the continuing resolution. So I was pleased to work with Chairman HATFIELD to construct a provision for this continuing resolution that added $60 million to NECIP while simultaneously providing $22.5 million to keep several routes in operation—routes in various parts of our country that were slated for termination due to Amtrak's current financial difficulties. This funding was completely offset with a series of noncontroversial rescissions.

Mr. President, I have said time and time again that the key to Amtrak's future is the expeditious completion of the major infrastructure improvements in the Northeast corridor. Amtrak's own studies indicate that all of the increased revenue Amtrak can hope to capture in the near term will come from the Northeast corridor.

I have also long believed that we should have a financially healthy and adequately capitalized national railroad that serves as many areas as possible. As such, I was pleased to support Members' efforts to maintain service to their States and throughout the country.

But as we work to keep the national Amtrak network together and avoid route terminations, it has to be recognized that the key to Amtrak's self sufficiency—the key to Amtrak generating enough revenue to operate lines throughout the Midwest and the West, is adequate funding for Amtrak's Northeast corridor.

This is not just the opinion of a Senator from the Northeast. It is written clearly across Amtrak's balance sheet. The Northeast corridor carries half of all of Amtrak's riders and generates well over half of Amtrak's passenger-related revenues.

Indeed, Amtrak's President, Tom Downs, recently testified to the Senate Commerce Committee that, were it not for the recent positive financial performance of the Northeast corridor, the trains that were slated for termination in the next few months would have been terminated several months ago.

As such, I am very pleased that this continuing resolution includes our amendment providing the additional $82.5 million for Amtrak, including the additional $60 million for NECIP. This will bring the final funding level for NECIP to $175 million. While this is still $25 million below the administration's request, it is well above last year's level.

This funding is essential to assure the development of efficient high-speed rail service throughout the entire Northeast before the end of the century. It will be that kind of service that will produce the revenue to allow Amtrak to avoid service cuts elsewhere in the country.

I thank my many allies in this effort. Most notably, I want to thank our Chairman, Senator HATFIELD, who stood firm throughout his negotiations with the House on this item. Also, Senator WYDEN, Senator BIDEN, Senator ROTH, Senator HUTCHISON, Senator BUMPERS, Senator PRYOR, Senator PELL, Senator SHELBY, and the majority leader Senator LOTT.

Mr. INOUYE. Mr. President, I rise today to address section 330 of the Omnibus Appropriations Act, which amends the Rhode Island Claims Settlement Act to preclude the Narragansett Indian Tribe of Rhode Island from conducting gaming on its lands under the authority of the Indian Gaming Regulatory Act.

Contained in the general provisions of the bill relating to the Interior Department appropriations and the narrative which accompanies section 330, is a colloquy that I engaged in with Senators PELL and CHAFEE on September 15, 1988.

Should the inclusion of this colloquy in the measure be perceived as an indication of my support for this provision, I feel that I must set the record straight.

I believe that the record should show that at the time of our colloquy, there was an underlying premise upon which our discussion was based, which I have since learned, was erroneous.

That underlying premise was that there had been no intervening events of legal significance that would warrant any change in the provisions of the Rhode Island Indian Claims Settlement Act.

At the time that the Rhode Island Indian Claims Settlement was agreed to in 1978, the Narragansett people were organized as a State-chartered corporation. Given that status, it is perhaps understandable that the settlement act provided for the extension of State criminal, civil, and regulatory laws to the settlement lands.

But in 1983, the Narragansett Indian Tribe achieved federally-recognized

status, and in 1988, a few days before the September 15, 1988 colloquy, the tribe's settlement lands were taken into trust by the United States.

These two intervening events are important because federally-recognized status generally confers upon tribes exclusive jurisdiction over their lands, and when their lands are taken into trust, the protections of Federal law are extended to the lands, and the combination of Federal and tribal law and jurisdiction over the lands acts to preempt the application of State laws to such lands.

Indeed, the legal significance of these intervening events was of such import, that in 1994, the First Circuit Court of Appeals concluded that the provisions of the Rhode Island Indian Claims Settlement Act were affected by the two events, and that the State no longer has exclusive jurisdiction over the settlement lands. The first circuit held, instead, that the State's jurisdiction was concurrent with that of the Narragansett tribe.

Let us be clear about what section 330 of the Omnibus Appropriations measure has as its objective—it will effect a return to the State of the law as it was in 1978, notwithstanding the fact that the tribe is now federally-recognized and would otherwise enjoy the status of other federally-recognized tribes, and notwithstanding the fact that the tribe's settlement lands are now held by the United States in trust for the tribe and would otherwise not be subject to the exclusive jurisdiction of the State of Rhode Island.

Some might question why this extraordinary action is being taken—why this provision was so important that the jurisdiction of the authorizing committees was circumvented and this amendment to substantive law, which by the way, has absolutely nothing to do with the appropriation of funds in fiscal year 1997—was included in this spending bill. The answer, as I understand it, is to prevent the tribe from operating a bingo hall on tribal lands.

In my 17 years of service on the Committee on Indian Affairs, in my 8 years of service as the committee's chairman, and for the last 2 years, as the committee's vice-chairman, I have, for the most part, been proud of the manner in which the United States has dealt with the Indian nations on a government-to-government basis.

We have attempted to reverse or at a minimum address the effects of some of the darker chapters of our history as a Nation when it comes to our treatment of the indigenous people of this land. We have resolved to consult with them on any law or policy which will affect their lives or their Governments, and indeed, Federal law requires that we do so.

But today over the strenuous and adamant objections of this tribe, we are enacting into law a provision that holds the potential to forever change their lives, without the benefit of hearings, in the absence of any record that would serve to justify our action, and without any consultation with the affected tribe.

I have advised my colleagues from Rhode Island that I could not support this provision. I also so advised the President of the United States, the minority leader, and the members of the House and Senate Appropriations Committees. And so, Mr. President, it will come as no surprise to my colleagues, when I state my intention, as I do today, to call for hearings early in the next session of the Congress on this matter.

And further, I want to put others on notice that as long as I continue to serve in this body, the action we approve today, will not serve as a precedent for similar action affecting other tribes, nor will it define the manner in which we deal with the Indian people.

Mr. President, our constitution establishes a distinctively different framework for our relations with the Indian tribes, and 200 years of Federal law and policy have been constructed on that foundation. We are a Nation which prides ourselves on our honor and integrity in our dealings with all people. We owe no less to this Nation's first Americans.

Ms. MIKULSKI. Mr. President, I will vote for the Omnibus Appropriations bill today.

I will vote for this bill because the funding levels it provides will help to meet the day to day needs of working Americans and their families.

This bill addresses Democratic priorities. Democrats are working for health security, paycheck security, personal security and national security. The American people have made clear that these Democratic priorities are theirs as well. So I am pleased that this bill provides support for programs in each of these areas.

Let me speak first about health security. I am pleased that health programs will receive increased funding so that scientists and researchers can continue to search for the cure for diseases like cancer, Alzheimer's and Parkinson's disease. Funding for the National Institutes of Health is increased. Funding for breast cancer research, AIDS and childhood immunization all receive needed funds to continue critical life saving work.

This funding is particularly important for Maryland, both in terms of the number of jobs generated by the NIH and the impact of the research. Institutions such as Johns Hopkins and the University of Maryland fund critical research programs through the NIH. Keeping the funding at needed levels for the NIH will truly save lives and save jobs in Maryland.

Democrats also value economic security, and know that support for education is a key part of the opportunity structure that will create jobs now and in the future. I strongly support the education spending levels in this bill. The bill increases education spending over fiscal year 1996 levels for key programs, including Goals 2000, Safe and Drug Free Schools, Title I, the PELL Grant program, and the TRIO Program.

For my State of Maryland, this means additional funds for cash-strapped local school districts. Maryland will receive nearly $7 million for Goals 2000 reforms. These funds will enable local school districts to implement curriculum reform efforts to raise academic standards.

I am pleased that funding for safe and drug free schools has increased. Maryland will receive over $7 million to help combat crime and drugs in schools. Title I is an important program to help disadvantaged students learn basic reading and math skills. Maryland will receive $91 million for title I funding. Pell Grant funding has increased to $2,700 for low-income college students. This means more funds will be available for thousands of Maryland college students.

The funding levels for the TRIO program have increased. TRIO provides college opportunities like Upward Bound to minority students. TRIO provides thousands of minority students in Maryland with access to higher education.

In addition to increased education funding levels, the omnibus spending bill increases funding for the Department of Labor's job training program and dislocated worker assistance program. I strongly support these initiatives, because thousands of Maryland residents will continue to receive job training assistance and help with job search and relocation assistance.

Programs that help to provide personal security are also well funded by this legislation. These programs help ensure that our communities will be safer and our children will be better protected from drugs and crime.

Perhaps most significant is that funding for the COPS program is preserved. This program has been one of the great successes in fighting crime. Thanks to this program, over 900 new police officers are patrolling the streets in Maryland's cities and towns. I am a strong supporter of this program because it is making a real difference—protecting our communities by putting more cops on the beat. This bill also includes more money to fund the Violence Against Women Act, and funds to fight juvenile crime and keep our kids away from drugs through drug prevention programs.

This bill also addresses important national security concerns. It funds the President's antiterrorism initiatives. It is a sad day that we must face the reality that terrorism has come to our communities. We must ensure that we

do not experience another Oklahoma City. The best way to fight terrorism is to prevent it. This legislation takes concrete steps to prevent terrorism by upgrading the security of our public buildings, increasing our intelligence capability, and expanding the number of criminal investigators to fight and prevent terrorism.

So key Democratic priorities are well-funded in this legislation. People will be safer in their homes and their communities, critical health research will be supported, and education and training so vital to a promising economic future will be provided. These are mainstream American values, and I am pleased to see that these values are implicit in this legislation.

In addition to providing appropriations for the agencies and Departments of the Federal Government for which individual appropriations were not approved, this bill also contains a major authorizing program. I refer to the illegal immigration bill. I am pleased that the negotiations on this portion of the bill have produced a measure which is tough on those who violate our immigrations laws, but which is not punitive to those who have entered this country legally.

The illegal immigration legislation will strengthen our efforts to prevent undocumented immigrants from entering our country and obtaining employment. It will increase border patrols, create a voluntary pilot program for employment verification, and require additional INS investigators .

I had strong reservations about the conference report on this bill because of provisions which would have denied Federal assistance to legal immigrants. After all, legal immigrants have played by the rules, they pay taxes just like any U.S. citizen, and they contribute to the economy. I am pleased that the concerns I had have been addressed in this final compromise measure.

Under this compromise, we now focus on putting a halt to illegal immigration, which was our goal when we passed the Senate version of the bill. It is especially important that the so-called Gallegly amendment was dropped. Many of us were strongly opposed to this provision which would have denied a public education to illegal immigrant children. Children should not be punished for the errors of their parents.

I am very disappointed that we were not able to include the Senate-passed provisions for those seeking political asylum. The United States has always reached out to those fleeing persecution. The Leahy amendment which the Senate approved would have made sure that people seeking asylum were treated fairly. It would have given them the time they needed to present their case, and ensured that no Immigration official could send them back to their country without a fair hearing. It is disappointing that this good provision was not included in the measure. I hope we will be able to take care of this problem in the next Congress.

This omnibus appropriations bill represents the triumph of mainstream values. It rejects extremism. It addresses the concerns of America's families. The funding it provides for programs important to personal security, to national security, to economic security, and to health security ensure that we keep the promises we have made to help our working families and senior citizens. So I will vote to support this bill, and hope my colleagues will join me.

Mr. SHELBY. Mr. President, I am pleased to announce our success in passing the Shelby-Mack regulatory relief bill which is included as part of the omnibus appropriations bill. This bill will allow banks to devote additional resources to productive activities, such as making loans and extending credit to small businesses and potential homeowners. This hard fought, thoroughly debated legislation streamlines disclosure requirements, eliminates duplicative regulation and removes unnecessary filing and record keeping requirements.

I have been working diligently on a regulatory relief package for many years. It is only with tireless effort, conviction in market principles, and the blessing of a Republican Congress have we been able to turn the tides of banking legislation and provide significant regulatory relief for America's financial sector. In doing so, we have strengthened America's banking system and produced an environment conducive to competing in the rapidly changing, global financial market.

While I am convinced this bill will encourage economic growth and opportunity, by no means do I believe our job in Congress is complete. Over the years, we have witnessed an accumulation of banking laws with complete disregard to the burden it has placed on financial institutions and with very little value-added in terms of safety and soundness. I continue to believe that a more thoughtful structure of banking laws accentuating free market principles and jettisoning the heavy hand of Government regulation is the only way to ensure American financial institutions have the ability to complete in the dynamic marketplace of the 21st century. The Shelby-Mack bill is just the first deregulation bill a Republican Congress will give the American people. Next year I intend to move forward with another bill to increase the access of credit to consumers as well as strengthen the safety and soundness of the U.S. financial system.

In particular, the Community Reinvestment Act [CRA] places an enormous regulatory burden on banks—especially small banks. The truth of the matter is that banking, financial and labor regulations drive up the cost of low and moderate income housing for the very people they are intended to help. Indeed, Federal Reserve Governor Lawrence Lindsey has stated that "[a]n urban policy that increases the flexibility and creativity allowable under CRA and recognizes the wide variety of financial services and the enormous diversity of the markets involved could be a powerful tool to those in the business of community development." It is my intention to address these regulatory inequities in the 105th Congress.

Mr. President, as consumers and politicians realize the benefits of the efforts of the 104th Congress, it is my sincere hope that legislators will understand the value of independent thinking and the economic freedom we seek to bestow upon every American in the United States.

ASSET CONSERVATION, LENDER LIABILITY, AND DEPOSIT INSURANCE PROTECTION ACT OF 1996

Mr. SMITH. Mr. President, I would also like to pose a question to the chairman of the Senate Banking Committee to clarify the intent of the Asset Conservation, Lender Liability, and Deposit Insurance Protection Act of 1996 with respect to EPA'S authority to issue rules defining the scope of Superfund liability.

Mr. D'AMATO. I would be pleased to take part in such a colloquy.

Mr. SMITH. As you know, the United States Court of Appeals for the District of Columbia Circuit rules that CERCLA does not authorize EPA to issue binding rules that define the scope of liability under Superfund. *Kelley* v. *EPA*, 15 F.3d 1100 (D.C. Cir. 1994), 25 F.3d 1088 (D.C. Cir. 1994). Title V of this bill gives EPA limited and specific rulemaking authority on two narrow issues. The first one is the recognition of additional fiduciary capacities under new section 107(n)(5)(a)(i)(XI) of CERCLA. The second one is the involuntary acquisition of property by the United States Government under 40 CFR section 300.1105.

Mr. D'AMATO. The Senator is correct.

Mr. SMITH. It is my understanding that in granting EPA the authority to issue rules on these two narrow issues, title V does not in any way disturb the central holding in the Kelley case, namely that absent a specific delegation, that CERCLA, today, or as amended by this act, does not authorize EPA to issue rules defining the scope of CERCLA liability. I would like to confirm that my interpretation is the correct one, in order to avoid possible confusion and uncertainty in the future.

Mr. D'AMATO. That is correct.

Mr. SMITH. Finally, it is also my understanding that title V does not seek to confer upon EPA the authority to issue rules on any Superfund liability issues other than those actually specified in this bill. I would like to confirm

this important point so that the actions of the Congress in adopting this legislation are not misinterpreted in the future.

Mr. D'AMATO. Again the Senator is correct. EPA is given authority only to address the two specific issues covered by title V. No other rulemaking authority is conferred or affected by this legislation.

Mr. SMITH. Thank you, Mr. President.

Mr. CHAFEE. Mr. President, it is my understanding that, under the terms of the Asset Conservation, Lender Liability, and Deposit Insurance Protection Act of 1996, the liability of a fiduciary cannot exceed the assets held in its fiduciary capacity.

Mr. D'AMATO. The Senator is correct.

Mr. CHAFEE. And, would the chairman further agree, in determining the fiduciary's liability, the language is meant to apply to the value of the assets after any improvement due to any cleanup activity which may be undertaken? In fact, Mr. Chairman, it is the intent of this entire provision to create incentives for cleanup and the productive reuse of contaminated properties.

Mr. D'AMATO. The Senator is correct.

Mr. CHAFEE. Thank you, Mr. President.

Mr. SMITH. Mr. President, I rise today to discuss language that has been included in the continuing resolution regarding clarifications to the liability of lending institutions under Superfund. During the past year, I have been working closely with Senator JOHN CHAFEE, the chairman of the Environment Committee, to enact comprehensive legislation to reform the Superfund program. The bill we introduced, S. 1285, the Accelerated Cleanup and Environmental Restoration Act of 1996, includes language to address the issue of lender liability. A version of our lender liability language is contained in the continuing resolution that we will be voting on today.

Unfortunately, S. 1285 will not make it into law before we adjourn. Despite months of daily negotiations with Senator MAX BAUCUS, the ranking member of the Environment Committee, Senator FRANK LAUTENBERG, the ranking member of the Superfund Subcommittee, as well as representatives of the Clinton administration, we were unable to obtain bipartisan agreement on this legislation. This is unfortunate, because I fervently believe that the Superfund program is badly in need of reform.

During the 104th Congress, Senator CHAFEE and I actively opposed efforts to carve out various liability concerns, deciding instead that issues such as lender liability should be included in a comprehensive reform package. Nonetheless, after discussing this issue personally with Senator ALPHONSE D'AMATO, the chairman of the Banking Committee, both Senator CHAFEE and I agreed that we would have our respective staff work together to include the provision contained in the continuing resolution. So, while I am saddened that we could not enact comprehensive Superfund reform legislation, I am pleased that we are able to address the problem of lender liability this year.

I would like to take a few minutes to discuss why this language is so important. As many of my colleagues may know, liability under Superfund is strict, retroactive, joint and severe. As Superfund has been interpreted by the courts, banks that merely take possession of Superfund contaminated property by foreclosure, risk the possibility that they themselves could be held liable for any cleanup that may be required. Thus, a lender who had no direct involvement at the site could be on the hook for cleanup costs far exceeding the original value of the underlying property.

Because of the specter of potential Superfund liability, financial credit that is needed for redevelopment or cleanup is not extended. The results of the current liability provisions are all too evident. Homeowners cannot refinance homes, brownfields sit uselessly in our cities, and companies do not take part in voluntary cleanups for want of funds.

The language that Senator D'AMATO and I have included in the continuing resolution moves to correct this situation by clarifying when a lender is liable for environmental contamination. Lenders will not be liable unless they take an active role in management of the site. This change will significantly reduce lender concerns about making loans at these sites and will significantly increase the amount of redevelopment funding available in our Nation's inner-city brownfield areas. This development is vitally important to restore the large number of brownfields to productive use, to allow homeowners access to funds to refinance their homes, and companies to continue voluntary cleanups. The liability provisions in this bill will go a long way toward making these things possible.

I do want to clarify one issue; the language we are adopting today is not a liability carve out. Indeed, Superfund as originally passed, did not intend to hold lending institutions liable for this type of business activity. Unfortunately, a series of conflicting court decisions over the authority of the EPA to issue rules clarifying lender liability has left this issue unsettled. Thus, the language we are adopting today merely clarifies a liability outcome that was already intended by Congress.

The issue of brownfield redevelopment is a matter that has been long spearheaded by Republicans, most notably JOHN CHAFEE, and by making this one very logical change, we will be able to spur reinvestment by private financial markets in the blighted parts of our country.

As I alluded to earlier, although this issue is clearly within the jurisdiction of the Subcommittee of Superfund, Waste Control, and Risk Assessment, I was pleased to work with Senator D'AMATO to include this enlightened provision in the continuing resolution. I believe this is a positive change to Superfund, and I thank Senator D'AMATO for working with me on this issue of mutual concern.

PAYING-UP AT THE UNITED NATIONS

Mr. PELL. Mr. President, one aspect of the continuing resolution which troubles me deeply is the level of funding for assessed U.S. contributions to the United Nations and other international organizations of which the United States is a member. The administration's adjusted request for this account was $1.002 billion. The bill provides $892 million. This level is $110 million less than the request. It does not provide funds to pay any of our arrearages, and because it is insufficient to cover our assessments, the result will be further U.S. indebtedness, not only to the United Nations but also to some of its specialized agencies.

I know that many on the other side of the aisle, and perhaps some on this side as well, believe that the only way we can force the United Nations to make the administrative and management reforms we all seek is to withhold some or all of our contributions. I think they misunderstand the nature of the United Nations, and the U.N. environment, and also the degree to which our contributions provide leverage.

Certainly the United States is the last remaining superpower and the largest single contributor to the United Nations. But we are not the only power in the United Nations, and we cannot simply impose our demands on the organization. The United Nations is an organization comprised of 185 members. Many of the administrative and financial reforms that we hope to achieve must be voted on by the General Assembly. In order for us to succeed in that body, we must convince a majority of States that the proposed reform make sense, and do not hinder their own interests. For example, our effort to reduce the percentage of U.S. contributions to the United Nations will impact on the contributions made by other States, no doubt in the end requiring them to pay more. Certainly there are states that today can afford to pick up a greater share of the U.N.'s operating expenses. But we cannot force them to do so. We have to convince a majority of them, particularly the other major powers such as our European allies and Japan that changes in the assessment levels will, in the end, strengthen the United Nations as an institution, and thus be in the interest of all states.

Our ability to build support for reforms at the United Nations has been eroded by Congress' refusal to provide the necessary funds for the United States to pay its dues to the United Nations. Initially, the threat of withholding contributions may have been effective. It isn't anymore. This tactic has simply made the United States into a deadbeat debtor. As of this month the United States owes a total of $1.7 billion to the United Nations—$414 million for the regular U.N. budget, $771 million for peacekeeping and $542 million for the specialized agencies. Our failure to pay has subjected us to sharp criticism, particularly from our key European allies who also contribute a fair share of the U.N. budget, and it has decreased, not increased, our leverage, particularly to promote reforms desired by the Congress.

The United Nations is very much an unruly debating society. Every member has a voice and a vote. Consensus is the primary method of decision-making. Certainly the positions of the United States carry great weight but our demands and needs, even with our veto, are not the only defining factor.

If we are serious about reforming the United Nations, we need to be serious about fulfilling our financial obligations to that institution. I hope that next year Congress and the administration will have a meeting of the minds on this issue. There must be agreement on a set of reforms that can be achieved over a reasonable time period and a formula for payment that will enable the United States to become current on its financial obligations. This kind of plan would make it clear to other U.N. members that the United States is serious, not only about reform but also about paying its dues. In my view, this is imperative if the United States is going to lead a successful reform effort at the United Nations.

NATIONAL INSTITUTE OF JUSTICE

Mr. ABRAHAM. Mr. President, I would like to engage the chairman in a brief colloquy to acknowledge the committee's support for initiatives under the National Institute of Justice [NIJ] account. In particular, I would like to address the NIJ's efforts to undertake a national study on correctional health care.

Mr. GREGG. I would be happy to accommodate the gentleman from Michigan.

Mr. ABRAHAM. I thank the chairman. Mr. President, let me first acknowledge the chairman and the committee for their diligent efforts to produce a fiscal year 1997 Commerce, State, Justice, and Judiciary appropriations bill.

Within the bill the committee has included language under the NIJ account that provides funding for a study on the potential health risks of soon-to-be-released inmates. This language is quite important to our Nation's criminal justice system and to nonprofit organizations devoted to assisting States with correctional health-care programs. For example, in my home State of Michigan, the National Commission on Correctional Health Care has been working with health and correctional officials to stem escalating costs and other problems associated with correctional health care. In light of the potential health risk associated with the nearly 11 million persons released each year from jails, prisons, and other correctional facilities, the National Commission is committed to assisting correctional and public health officials nationwide with correctional health-care concerns.

In addition to efforts at NIJ, I am also aware that the Centers for Disease Control believes an initiative along these lines would be beneficial to its efforts to suppress the spread of infectious and highly communicable diseases within correctional settings. As we look to advance efforts to provide pertinent data relevant to the correctional system, we should encourage efforts like that of the National Commission, which effectively contributes to the development of information relevant to correctional and public health officials.

Mr. GREGG. My colleague from Michigan makes a strong case in support of this initiative and the work of the National Commission. I, too, appreciate the importance of NIJ programs and of nonprofit organizations that provide a better understanding of correctional health care.

Mr. ABRAHAM. Mr. President, I thank the chairman for his sensitivity to correctional health care issues.

LAW ENFORCEMENT SUPPORT CENTER

Mr. LEAHY. Mr. President, I would ask if the Senator from New Hampshire, Senator GREGG, would join me in a colloquy regarding a provision included in the Senate report for the appropriations bill funding the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies.

Mr. GREGG. Mr. President, I would be pleased to join in a colloquy with the senior Senator from Vermont.

Mr. LEAHY. I thank the Senator from New Hampshire. Mr. President, the appropriations bill reported from the Appropriations Subcommittee on Commerce, Justice, State, and Judiciary included within the immigration examinations fees account $3,325,000 for the Law Enforcement Support Center in Vermont. It is my understanding that the $567,550,000 provided in the omnibus appropriations conference report for immigration examinations fees includes the $3.325 million for the Law Enforcement Center. Does the Senator from New Hampshire agree with my interpretation.

Mr. GREGG. The Senator from Vermont is correct. The funding provided for immigration examinations fees does include $3.325 million to fund the Law Enforcement Support Center in Vermont.

FEDERAL LAW ENFORCEMENT DEPENDENTS ASSISTANCE ACT OF 1996

Mr. SPECTER. Mr. President, I would like to bring to Chairman GREGG's attention the passage of S. 2101, the Federal Law Enforcement Dependents Assistance Act of 1996, which I introduced with 10 Republican and Democrat cosponsors. S. 2101 authorizes, for the first time, educational and job training assistance for the spouses and children of Federal law enforcement officers killed or totally disabled in the line of duty. These benefits will be subject to the availability of appropriations and will be distributed to eligible dependents based on an application to be devised by the Attorney General.

This legislation passed the Senate on September 20 by unanimous consent and passed the House of Representatives on September 26, which was too late to be taken into account by the Appropriations Committee in the fiscal year 1997 bill we are considering today. I would ask the Senator from New Hampshire for his thoughts on funding for this valuable program.

Mr. GREGG. Mr. President, the Senator from Pennsylvania has raised an important issue. The Federal Government has a responsibility for helping the families of Federal law enforcement officers who are lost or disabled in the line of duty. Educational and job training assistance is one appropriate response and deserves the support of the Congress. I would encourage the administration to consider reprogramming funds to support this effort.

Mr. D'AMATO. Mr. President, I wonder if the distinguished chairman of the Committee on Small Business would like to comment on the Senate substitute amendment to H.R. 3719, the Small Business Programs Improvement Act of 1996. Am I correct in my understanding that this legislation is included in the omnibus appropriations bill that will be considered by the Senate today, and that it contains important provisions designed to preserve and strengthen several SBA finance programs that benefit small businesses throughout the country.

Mr. BOND. The distinguished chairman of the Banking Committee is correct. Today the Senate will have an opportunity to pass a bipartisan bill that makes many improvements to the Small Business Act and the Small Business Investment Act and assures continued availability of capital and financing to small businesses through SBA's 7(a), 504 and SBIC programs. I thank the Senator for his longstanding and consistent support of small businesses, and for his understanding of their special needs in the financing area. This legislation includes the provision the chairman of the Banking

Committee and I jointly developed to enhance the availability of SBIC leverage. I commend the Senator for his creativity and his support for new ways to improve small business access to capital.

Mr. D'AMATO. I am pleased that this very important new provision is included in this legislation. I believe it is appropriate for the Federal Home Loan Bank system to assist small businesses, by making additional leverage investments in SBIC's, as an element in fulfilling the Federal Home Loan Banks' community and economic development mission.

Mr. BOND. Mr. President, I ask unanimous consent to include in the record a short statement describing this new statutory provision and expressing the joint views of the Banking Committee and the Small Business Committee on this matter.

BANKING COMMITTEE AND SMALL BUSINESS COMMITTEE JOINT EXPLANATORY STATEMENT

The small business investment company improvements provisions included in the omnibus appropriations legislation contains a conforming amendment to the Federal Home Loan Bank Act that preserves and strengthens existing law specifying that stock, obligations or other securities of certain small business investment companies are authorized investments for Federal Home Loan Banks. The current Federal Home Loan Bank Act provision refers only to small business investment companies formed pursuant to section 301(d) of the Small Business Investment Act.

This legislation amends the Federal Home Loan Bank Act to make clear that Federal Home Loan Banks are permitted, subject to any regulations, restrictions and limitations that may be prescribed by the Federal Housing Finance Board, to invest in stock, obligations or other securities of any small business investment company licensed and operating under the supervision of the Small Business Administration. This authority exists independently of whether the SBIC is owned by or affiliated with a banking organization. This amendment is intended to encourage Federal Home Loan Banks, on a prudent and financially sound basis, to play a part in satisfying the needs of small businesses for the kind of venture capital for business start-up or expansion that is made available by small business investment companies.

A Federal Home Loan Bank's loans to or investments in an SBIC will not be counted as private capital of the SBIC within the meaning of Section 103(9) of the Small Business Investment Act. The structure of the Small Business Investment Act contemplates that an SBIC, rather than raising its original private capital from governmental or quasi-governmental sources, should demonstrate an ability to raise a significant amount of capital from private sources that demand a market-based financial return. Once an SBIC has raised this private capital and has become licensed by SBA, however, Federal Home Loan Banks would be furthering the legitimate objective of economic and community development through promoting small business investment and growth.

In order to be attractive to SBICs that will, in most cases, be making long term portfolio investments, Federal Home Loan Bank investments to provide SBIC leverage should be made on a long term basis as well. Federal Home Loan Banks now routinely make long term advances to members in the normal course of business. However, under some circumstances a Federal Home Loan Bank may wish to sell or liquidate an SBIC investment prior to its stated maturity or prior to the date by which the Federal Home Loan Bank expects to receive a complete return on its investment. Because the Federal Home Loan Bank Act does not require that an investment in an SBIC be acquired directly from the SBIC, a Federal Home Loan Bank would be permitted to acquire and dispose of SBIC investments in secondary transactions, including transactions with other Federal Home Loan Banks. In addition, a Federal Home Loan Bank, for purposes of liquidity, diversification or otherwise, may want to structure its investments in SBIC's through a trustee relationship or other special purpose intermediary. This structure is permissible under the Federal Home Loan Bank Act as long as the Federal Home Loan Bank's beneficial ownership interest in the SBIC investment is sufficiently documented and the trustee or special purpose intermediary holds only stock, obligations or other securities of an SBIC or other authorized Federal Home Loan Bank investments.

The Small Business Investment Act prescribes limits on the amount of SBA leverage made available to an SBIC. These statutory limits on SBA leverage are designed in part of achieve a fair distribution of SBA leverage among all SBICs in a situation where there may be more requests for leverage than SBA has authorization or appropriations to satisfy. A Federal Home Loan Bank should not invest in a single SBIC an amount in excess of any aggregate limits or percentages established by the Bank or by the Federal Housing Finance Board, but the statutory maximum on SBA leverage set forth in the Small Business Investment Act does not apply to Federal Home Loan Banks.

In establishing the terms and conditions on which SBIC loans or investment will be made, Federal Home Loan Banks may want to take into account both the terms and conditions on which SBA now makes leverage available to its SBIC licensees, as well as the expected risk-adjusted return and other terms on which Federal Home Loan Banks structure their advances to members. Some SBIC's receive "participating security" leverage from SBA, structured as an equity instrument rather than debt of the SBIC. Other SBICs obtain traditional debt leverage from SBA through the issuance of debentures. The language of the Federal Home Loan Bank Act gives Federal Home Loans Banks the discretion to provide leverage to an SBIC on terms similar to the equity or debt securities SBIC's now issue to obtain leverage through SBA, or on any other terms approved by the banks and the Federal Housing Finance Board.

SBA's participating security leverage offers some advantages for SBIC's planning to make equity oriented portfolio investments that are not expected to generate sufficient early stage cash flows to satisfy regular interest payment requirements. Leverage structured as equity also makes its easier for SBIC's to attract private capital from certain institutional investors that would not invest private capital in an SBIC planning to obtain debt leverage. If a Federal Home Loan Bank provides equity leverage to an SBIC, the investment could be structured as a preferred investment or otherwise senior in priority over the private equity capital of the SBIC.

If a Federal Home Loan Bank investment in an SBIC is structured as debt, the Federal Home Loan Bank could obtain a first priority security interest or an unsecured senior position acceptable to the bank with regard to SBIC portfolio investments made with the proceeds of the Federal Home Loan Bank leverage. If the SBIC has SBA leverage outstanding or subsequently obtains SBA leverage, the SBIC's issuance of the Federal Home Loan Bank debt would be subject to the Small Business Investment Act's provisions dealing with third party debt of an SBIC. Section 303(c) of the Small Business Investment Act, as amended by this legislation, requires that SBA not permit an SBIC having outstanding SBA leverage to incur third party debt that would create or contribute to an unreasonable risk of default or loss to the Federal Government, and directs SBA to permit SBICs to incur such debt only on terms and subject to such conditions as may be established by SBA. In furtherance of the public policy objectives of encouraging the development of an additional source of reduced-cost leverage and to attract additional participation in the SBIC program that will increase the amount of venture capital available for small businesses, SBA should implement Section 303(c) in a manner that does not limit the ability of Federal Home Loan Banks to provide leverage to SBICs.

Because Section 303(c) applies only to an SBIC having outstanding SBA leverage, SBA need not review or approve,

and should not establish any conditions with regard to, a Federal Home Loan Bank investment in an SBIC with no outstanding SBA leverage. For an SBIC with outstanding SBA leverage, SBA should allow the SBIC to obtain additional debt or equity leverage from a Federal Home Loan Bank as long as the Federal Home Loan Bank investment does not give the Federal Home Loan Bank a priority claim on any assets of the SBIC attributable to or acquired with the proceeds of SBA leverage. Similarly, the existence of any outstanding Federal Home Loan Bank leverage should not cause SBA to decline a subsequent SBIC application for SBA leverage, as long as the terms of the outstanding Federal Home Loan Bank leverage do not give the Federal Home Loan Bank a priority claim on SBIC assets attributable to or made with the proceeds of any SBA leverage.

THRIFT TAX PROVISION

Mr. ROTH. Mr. President, as chairman of the Committee on Finance, it is my responsibility to make sure that tax-related measures are reviewed and evaluated by the Committee on Finance. Like other committees, the Committee on Finance takes very seriously its jurisdictional responsibilities. The House Committee on Ways and Means similarly exercises its jurisdictional responsibilities on tax-related measures in the House of Representatives.

Historically, the Committees on Finance and Ways and Means have opposed the inclusion of tax-related measures in appropriation bills. However, because of the unusual circumstances surrounding this appropriations bill, Mr. BILL ARCHER, chairman of the House Committee on Ways and Means, requested that the Committee on Appropriations include a tax-related measure in the omnibus appropriations bill.

Mr. President, I concur with Mr. ARCHER's request. But my colleagues should be aware that this is a unique situation. The tax-related measure will expedite consideration of important banking legislation that is also contained in the bill. The tax-related measure does not change the Internal Revenue Code. It merely clarifies the current-law treatment of special assessments that many thrifts will pay in accordance with the banking legislation. The staffs of the Committees on Finance and Ways and Means worked together to develop the tax-related measure.

Since the tax-related measure was initiated by the Committees on Finance and Ways and Means, it should be understood that its inclusion in the appropriations bill does not establish a precedent for the Committee on Appropriations to initiate or include tax-related measures in future appropriations legislation. Mr. ARCHER made a similar statement in his letter to the House Committee on Appropriations.

Mr. President, I ask unanimous consent that Mr. ARCHER's letter to the House Committee on Appropriations be printed in the RECORD at this point.

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

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, September 27, 1996.

Hon. BOB LIVINGSTON,
Chairman, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I write regarding possible inclusion of the so-called "BIF-SAIF" provisions in the upcoming omnibus appropriations bill. Specifically, I understand that the BIF-SAIF package will include the imposition of a special assessment to capitalize the Savings Association Investment Fund (SAIF).

As you may know, the Committee on Banking has been in consultation with the Committee on Ways and Means and the Administration to determine whether this special assessment would be deductible for tax purposes. Representatives of the Treasury Department have informed us that they believe that the special assessment would be deductible under current law. We share that view.

Nonetheless, I have suggested a statutory clarification on this matter for the BIF-SAIF package. This language does not amend the Internal Revenue Code and merely reiterates the understanding shared by this Committee and the Administration on the appropriate tax treatment of the special assessment under current law.

Historically, the Committee on Ways and Means has opposed inclusion of tax-related measures in appropriation bills. We have also been circumspect in sending to the Senate potential revenue bills which may become vehicles for extraneous legislation. I know that you share my views on these matters.

However, in order to expedite consideration of the BIF-SAIF package, I have agreed to the inclusion of this clarifying language in the omnibus appropriations bill. This is being done only with the understanding that the omnibus appropriations bill will be considered as a conference report which will not be subject to further amendment in the Senate, that no additional revenue-related matters will be included in the final conference report, and that the language to be included has been prepared by the staff of the Committee on Ways and Means, which is substantially similar to that included in H.R. 2494, reported by the Committee on Ways and Means earlier this Congress.

This is also being done with the understanding that this Committee will be treated without prejudice as to its jurisdictional prerogatives on such or similar provisions in the future, and it should not be considered as precedent for consideration of matters of jurisdictional interest to the Committee on Ways and Means in the future.

Finally, I would ask that a copy of this letter be placed in the Record during consideration of the bill on the Floor. Thank you for your cooperation regarding this matter. With warm personal regards,

Sincerely,

BILL ARCHER,
Chairman.

CHILD PORNOGRAPHY PREVENTION ACT OF 1996

Mr. BIDEN. Mr. President, I rise with my friend Chairman HATCH to commend the inclusion of the Hatch-Biden child pornography bill in the omnibus continuing resolution. This bill will strengthen our ability to track down and crack down on child pornographers.

Those who produce and traffic in child pornography—who exploit the most vulnerable and innocent among us—are, by my lights, among the worst of the worst. They cause a harm that is unspeakable and a damage that is often irreparable.

Child pornography is not an art form and it is not a type of expression that we must tolerate even though we find it intolerable. To the contrary: We have an obligation—a moral obligation, in my mind—to protect our children from this type of abuse—which steals their innocence and shatters their dreams.

I consider myself an unapologetic champion of the first amendment. Yet I believe that child pornography deserves no, and I mean no, first amendment protection.

Over the years, the computer has become an increasingly powerful weapon of the child pornographer and today, technology is making it even easier for child pornographers to make and sell their wares.

What we're seeing now is this: Pornographers are taking pictures of children and morphing them, with the help of computer technology, to make it look as if the children are engaging in sexual conduct.

That means that it's not necessary, these days, to actually molest children in order to produce pornography that exploits and degrades them. All that's necessary is an inexpensive computer, some software, and a photograph of the little boy or girl down the street.

We must move right here and now to put this new generation of child pornographers behind bars.

But we must also be mindful that we live under a Constitution which includes a robust commitment to free and open speech and which necessarily tolerates what is sometimes called the speech we love to hate.

As a threshold matter, any statute that we write must pass the first amendment's test. Otherwise, it will sit on our books, unconstitutional and unenforceable, doing not one child one bit of good.

I am concerned that a provision in this bill which criminalizes the depiction of something that appears to be a minor engaging in sexually explicit conduct will not pass constitutional muster.

This proposal would cover purely imaginary drawings, as well as depictions of adults who appear to be minors engaged in sexually explicit conduct, like a documentary that deals with child sexual abuse, featuring a 19-year actress who looks like a very young girl.

Don't get me wrong: like many Americans, I would like for a lot of the

stuff that's out there today, even it it's just a figment of someone's warped imagination, involving no actual children at all, to be banished from the face of the Earth right now and forever.

But I am not king. And it is our Constitution that still reigns supreme and whose first amendment principles will not, in my opinion, countenance this sort of broad and open-ended prohibition.

The constitutional analysis begins with the famous 1982 case of *New York versus Ferber*, in which the Supreme Court first recognized the child pornography exception to the first amendment. In the case, the Court pointed to a number of compelling reasons to justify a total and outright ban of this sort of material:

It causes psychological and physical harm to children used as subjects;

It creates a permanent record of sexual abuse;

It fuels the child pornography trade; and

Its artistic and social value is limited, to say the least.

At the heart of the analysis, and why the Court justified such a categorical and complete restriction on speech, is a very straightforward idea: Children who are used in the production of child pornography are victims of abuse, plain and simple. And the pornographers, also plainly and simply, are child abusers.

In the cases following Ferber, strict restrictions on child pornography are predicated on the same rationale: The creation of the pornography hurts the children who are its subjects.

That's why I am concerned that the appears to be standard, which does not in any way involve an actual child in the creation of child pornography, will not survive the inevitable constitutional challenge to this legislation.

My view is shared, among others, by Harvard professor Frederick Schauer, who was the commissioner of the now famous Meese Commission on pornography.

In testimony before our committee, Professor Schauer expressed the opinion that the appears to be standard in the bill would most probably fail the Ferber test and would therefore become a failed weapon in our crusade against pornography.

That is why I introduced an amendment to Senator HATCH's proposal, which would make it a crime to create a visual depiction that makes it look like an identifiable minor is engaging in sexually explicit conduct, whether or not the child ever actually engaged in the conduct.

Here's what this would mean: If a pornographer uses an image, a face or other identifying feature of an actual child, and, via computer morphing or any other means, makes it look like the child is engaging in sex, that will be a crime.

Unlike images that are completely conjured up in someone's imagination, or which employ adults who look like children, these kinds of images do cause real harm to real children:

Although the child may not have actually engaged in the sexual conduct, the image creates an apparent record of such conduct. In my book, that's abuse and that's harm, period.

These kinds of morphed images can be used to blackmail a child into engaging in sexual activity, by intimidating him, or by threatening to show the pictures to others if he doesn't comply.

Also, as the experts tell us, child pornography has a very long life as it often passes among many, many hands, thus victimizing a child who's in the picture time and again.

The definition of identifiable minor in this bill makes it clear that proof of the minor's identity is not required for the prosecution to make its case, only that the child is capable of being identified as an actual person. It also does not matter whether the person depicted is a minor at the time the depiction is created, or whether the depiction is made from a childhood image of a person who is now an adult.

I believe that my proposal is consistent with the Ferber standard with its bottom line focus on the well-being of actual children.

Do not get me wrong: I am wholly sympathetic and supportive of Senator HATCH's view that even imaginary depictions that do not involve actual children can, indeed, cause harm. This kind of stuff can be used by pedophiles to entice other children into sexual activity.

But the point is this: The act of enticement, of course, is itself a separate crime and I think we all agree that we should throw the book at anyone who would do such an unthinkable and despicable thing.

But the Supreme Court has drawn a line in the sand when it comes to the production of the pornography itself and the constitutional line stops with the involvement of real children. And again, it is only a constitutional law, one that will be upheld and enforced, that will serve to protect our children.

In order to more gracefully bring together my proposal and Senator HATCH's, this substitute merges our two approaches into one new section to be added to the criminal code. And though I have agreed to this stylish accommodation of our two ideas, let there be no mistake:

We clearly intend that if any portion of the bill's definition of child pornography, such as the "appears to be" standard, is struck down as unconstitutional, the remaining provision, the prohibition on material involving an identifiable minor, will stand on its own, completely severable.

Our intention here is made crystal clear in the substitute bill's new severability clause.

I'd like to say a brief word about another aspect of this bill. It includes a number of penalties, many of which are properly tough and severe. And though I believe that we should give child pornographers no quarter, I do not think the creation of new mandatory minimums is smart sentencing policy.

One of the main problems with mandatory minimums is that they treat different types of offenders the same, which means that the really bad guys get the same punishment as the less blame worthy. For example, under the proposal added to this bill by Senator GRASSLEY:

A person who puts out an ad seeking to buy soft core child pornography is going to get the same 10-year mandatory minimum sentence as the guy who actually employs or entices an 11 year old to make hard core, violent porn. By the same token, that person who advertises to buy child porn will get the same 10-year mandatory minimum as the parent who markets his child for child pornography.

Make no mistake about it: All these guys should get a tough sentence. But they shouldn't get the same sentence. The same sentence may be too tough for the less culpable, and not tough enough for the most culpable. That's not smart sentencing policy.

As Chief Justice Rehnquist has noted:

> One of the best arguments against any more mandatory minimums, and perhaps against some of those that we already have, is that they frustrate the careful calibration of sentences, from one end of the spectrum to the other.

These reservations notwithstanding, I believe that we must get on with the very important business at hand which is to stem the tide of this new generation of child phonography. We have no time to waste, and I am pleased that this bill will soon become law.

I thank my colleagues for their support.

OBJECTING TO THE SUMMARY EXCLUSION AND ASYLUM PROVISIONS

Mr. LEAHY. I find myself here again on the Senate floor faced with a conference report that contains provisions that the Senate and this Senator never had a fair opportunity to consider and that will do grave damage to the United States' place in the world as a refuge for the oppressed and as a champion of human rights.

I say "again" because I first came to the Senate on the issue of asylum and summary exclusion last April 17 to oppose similar provisions in another conference report. I offered a motion to recommit that conference report on S. 735 in order to strike those sections added to that bill in the dark of night modifying our asylum processes, establishing summary exclusion and precluding judicial review. I objected then to those sections of that bill that had not been previously considered by the

Senate and that had nothing to do with preventing terrorism, but were snuck into that conference report to alter general immigration law. I failed in that attempt to recommit the antiterrorism conference report by a mere 7 votes.

I knew from the beginning that my motion to recommit has little chance of success because Members were intent on passing an antiterrorism bill in connection with the anniversary of the Oklahoma City bombing. Several Senators came up to me and said that they would have an easier time voting with me on the immigration bill and encouraged me to fix the problem when the immigration bill was considered in the Senate.

When we considered the Senate immigration bill in May, I continued my efforts. With Senators DEWINE, KERRY and HATFIELD I cosponsored an amendment to the asylum and summary exclusion provisions of that bill. With the support of a bipartisan group of Senators, including Senators KENNEDY, CHAFEE, SIMON, JEFFORS, and HATCH, we prevailed. On May 1, 1996, the Senate approved our amendment 51 to 49 and it replaced the summary exclusion provisions that had been in the immigration bill.

The bill that the Senate passed last May did not undermine our asylum processes or require summary exclusion where it was not necessary or appropriate. In the only vote by either body on these issues the Senate stood with those fleeing oppression and upheld our tradition as a haven for the oppressed and for those seeking religious and political freedom.

We have now come full circle. We in the Senate again find ourselves confronted by a time deadline and an unamendable bill. I am aware of where we are on the legislative calendar and can see other Members looking at their watches as they struggle to conclude this Congress and return home to campaign for reelection. I suspect that most Members have not even had a chance in the waning days of this Congress to examine the immigration bill conference report, let alone begin to explore what it will mean to those who will be denied refuge from oppression in other parts of the world under its provisions. There is no time, no real opportunity to educate ourselves or focus attention on this important matter. The majority simply rolls it out as part of "must-pass" legislation at the end of the session and it cannot be stopped.

I know that this legislation will pass and I expect that President Clinton will sign it—despite concern that these provisions may well violate our treaty obligations and undercut our world leadership on this issue. I recall that last February President Clinton wrote to Congressman BERMAN and noted his concern that "we not sacrifice our proud tradition of refugee protection and support for the principles of the Convention Relating to the Status of Refugees." The President wrote: "This critically important Treaty, which responded to the displacement that followed the Second World War, has enjoyed broad bipartisan support in the Congress. Moreover, our efforts to urge other governments to comply with its provisions has been a major element of our diplomacy on international humanitarian issues."

Specifically on the matter of summary exclusion, the President wrote that he favored "carefully structured stand-by authority for expedited exclusion." That is what I would provide, but the approach that the conference report rejects.

With regard to the overall proposals for summary exclusion that the House was pressing, the President wrote that they were "too broad and would also result in considerable diversion of INS resources." He noted that: "These provisions seem particularly unnecessary in view of the successful asylum reforms we have already initiated." I agree.

I look forward to working with President Clinton when we return next January to correct the excesses of this bill and to right the balance that is needed if we are to honor our commitment to our tradition and those in troubled areas of the world who look to America for refuge.

We did not have an opportunity to craft sensible summary exclusion and asylum provisions and this measure does not bear the Senate's stamp of approval. All Democratic conferees were barred from even offering motions or amendments. I was prepared to offer an amendment to correct the excesses of this conference report and to reaffirm the human rights of those who look to this great country for refuge, but there is no real opportunity today to urge those changes to this legislation. Just as its provisions will result in the summary exclusion of some with valid asylum claims and its truncated procedures will certainly result in the United States returning refugees to countries where their lives and freedoms are in danger, so, too, the circumstances in which the Senate considers this matter have summarily excluded this Senator from participation in the House-Senate conference on this bill and precluded any opportunity for amendment or modification of these provisions.

Let me share with you the stories of some of those who have recently succeeded in gaining asylum in this country who would most likely have been denied our refuge had the bill and its procedures governed.

One of the best recent examples of someone who could have lost his life had the bill been the law of the land is now a constituent of mine in Vermont. His name is Moses Cirillo. Moses is from the Sudan and is a Christian. He had served as a translator for Christian missionaries, distributed Catholic literature and worked with aid groups in the southern part of Sudan. Those are the activities that placed him and his family in danger. He escaped to Ethiopia and then to the United States on a false passport. He lost his wife and son and brother before fleeing.

When he got to this country, this land of freedom and opportunity, Moses Cirillo could not get the INS or an immigration judge to believe him or understand the circumstances that brought him here. Fortunately for Moses, the Vermont Refugee Assistance came to his aid and pursued his cause. This summer, after 3 years in detention, Moses Cirillo was granted asylum. The INS agents at the border and an immigration judge had ruled against him. It was only when his case was reviewed by the Board of Immigration Appeals that he finally prevailed. Had we not had the procedural safeguards that will be eliminated by this conference report, there can be little question that Moses Cirillo would not be free and living in Vermont today.

Just a few days ago the Senate passed Senate Concurrent Resolution 71, a ressolution condemning human rights abuses and denials of religious liberty to Christians around the world. In that resolution we recognized that religious minorities continue to be oppressed and persecuted around the world. We termed religious persecution "an affront to the international moral community and to all people of conscience." We commented on persecution of Christians in such countries as Sudan—like Moses Cirillo—in Cuba, Morocco, Saudi Arabia, China, Pakistan, North Korea, Egypt, Laos, Vietnam, and countries that were formerly part of the Soviet Union. We termed religious liberty a universal right.

We noted "the United States of America since its founding has been a harbor of refuge and freedom to worship for believers from John Winthrop to Roger Williams to William Penn, and a haven for the oppressed." We referred to Pope John Paul II's call against regimes that "practice discrimination against Jews, Christians, and other religious groups." We proclaimed our "commitment to human rights around the world" and our international leadership on behalf of persecuted religious minorities."

We concluded less than 2 weeks ago, on September 17, that the Senate unequivocally condemns egregious human rights abuses and denials of religious liberty to Christians around the world and recognized Sunday, September 29, as a day of prayer recognizing the plight of persecuted Christians worldwide.

It makes little sense merely to condemn religious persecution if we turn

around and enact procedures that will shut out the oppressed and summarily exclude refugees from religious persecution. It rings hollow to recall our history of freedom of religion and our station as a haven for the oppressed when we are poised and prepared to abandon that proud tradition.

While the Senate of the United States finds it easy to condemn religious persecution in Sudan, INS agents and an immigration judge initially denied Moses Cirillo asylum claim. It was only the extraordinary efforts of human rights advocates in Vermont and their persistent pursuit of justice through the procedural safeguards in our asylum process that allowed him to prevail. If this bill had been the law, those protections would not have been available. I will continue to work to ensure that before too long we will choose to act consistent with the recognition that religious persecution still plagues so much of the world.

Another recent case is that of Fauziya Kasinga. I first brought this young woman's case to the attention of the Senate back in April. Two days before, a reporter named Celia Dugger had told Ms. Kasinga's story on the front page of The New York Times. She had sought for 2 years to find sanctuary in the country only to be detained, tear-gassed, beaten, isolated and abused.

She, too, came to the United States with false documents. In her case she obtained a false British passport in order to escape mutilation in Togo and traveled from Germany to New York. On June 13, the Board of Immigration Appeals granted her application for asylum from female genital mutilation in Togo. After 2 years in detention, in a case that was initially opposed by INS and rejected by an immigration judge, she finally was freed and granted asylum.

Her case established new law. For when the INS was called upon to file a brief with the Board of Immigration Appeals it took the position for the first time that fear of female genital mutilation should present a sufficient cause to seek asylum in the United States. Hers was a precedent setting case. Does anyone doubt that she would have been returned to Togo if the summary exclusion provision of the bill had been the law? Does anyone honestly think that the immigration agents with whom she came in contact at the border or the immigration judge who denied her claim would have established such a precedent as a case of first impression and rescued her?

It is ironic that in this immigration bill we require that aliens from certain countries be advised prior to or at entry into the United States of the severe harm caused by female genital mutilation and we create a criminal statute against female genital mutilation on children in the United States. Unfortunately, neither of those measures will help the young women who are being subjected to this practice in other parts of the world.

In addition, this bill would amend our statutory definition of refugee to include persons forced to abort a pregnancy or to undergo involuntary sterilization or who are persecuted for refusing such procedures. It will do no good to amend these definitions if we do not have fair procedures and a real opportunity for refugees to establish the circumstances from which they flee to America. Summary exclusion is wholly incompatible with these expansions of the grounds for asylum.

I am glad to see that the bill excludes Cuban refugees from the harsh provisions of the new exclusionary asylum procedures. I believe that this exception should be the rule. Indeed, this exception shows that the majority does not trust the procedures that they are imposing on refugees from all other countries in the world.

Let us examine briefly the Cuban exception and how it might or might not apply. First, we should notice that it only applies to those who are wealthy enough, lucky enough, or skilled enough to arrive by aircraft at a port of entry. Thus, not all who escape from Cuba would be covered by this narrowly drafted special exception.

Further, let us consider how the exception might or might not work in a real-life situation. Not so long ago Fidel Castro's own daughter came to the United States using a disguise and a phony Spanish passport to seek asylum. Under the provisions of the bill, she might well have been turned away at the border after a summary interview if the INS agent who confronted her did not believe that she was Cuban or Castro's daughter. Would that INS officer or the immigration judge reviewing the summary decision within 24 hours think that this disguised person with false documentation had established a "significant possibility" that she was Castro's daughter? Think about what would most likely have happened.

Next, I ask you to consider the case of Alan Baban. Mr. Baban is one of the many Kurds who was jailed and tortured in Iraq. He succeeded in bribing a jailor and escaping. He went into hiding for 3 years and ultimately escaped to this country without documents.

In spite of the notorious persecution of Kurds by the Iraqis and the scarring Mr. Baban carries with him for life, the INS agents who confronted Mr. Baban at the airport did not believe him and determined that he did not have a credible claim of persecution. Having come to the United States for freedom from oppression, Mr. Baban was imprisoned, again—this time by U.S. authorities.

A year later he was denied political asylum when the interpreter he was assigned at a hearing did not speak or understand his Kurdish dialect. As a result, the immigration judge before whom he appeared did not believe that Mr. Baban was Kurdish.

It took 16 months in detention before Alan Baban was finally granted asylum on appeal. That appeal will be eliminated by the procedures mandated by the bill.

Consider the case of Ana X. whom I met last April when she came forward to share her story. Two-years ago she fled Peru. She had been horribly treated and threatened by rebel guerillas from the Shining Path there. She came to this country without proper documents and gained asylum only after a full and fair opportunity to convince an immigration judge at a hearing that she would suffer persecution if she was returned to Peru.

When she tried to share her history with us earlier this year, she could not finish her second sentence before she broke down in tears, overwhelmed by the memories of what she had suffered. I cannot imagine this victim of oppression being able to talk about her suffering to a strange authority figure immediately upon her arrival in the United States. Fortunately, she had a chance to obtain the help of volunteers and was able to present her case to an immigration judge at a hearing.

Finally, consider the case of Nikolai S. from a former Soviet republic and a social scientist. He had been beaten by government agents because he is Jewish. He came to the United States in 1994 to conduct research and he found it hard to bring himself even to apply for asylum. Once he felt that he was ready and had assembled supporting evidence of the dangerousness of anti-Semitism in his homeland, he applied. Had the arbitrary 1-year filing deadline of the bill been in place, his application would have been rejected as too late.

Human rights organizations like the Lawyers Committee have documented a number of cases of people who were ultimately granted political asylum by immigration judges after the INS denied their release from detention for not meeting a "credible fear" standard and numerous instances where it took an appeal to the Board of Immigration Appeals.

I note the efforts of the Representative of the United Nations High Commissioner for Refugees, who has been supportive of our efforts to have credible fear judged by the accepted international standard.

I have heard from many House Members, Republicans and Democrats, who feel very strongly about these provisions. Some have sent Dear Colleague letters urging that others join us "in protecting human rights around the world."

In particular, I have heard from Representatives CHRISTOPHER SMITH, TOM LANTOS, BEN GILMAN, RICK BOUCHER, ILEANA ROS-LEHTINEN, MATTHEW MARTINEZ, LINCOLN DIAZ-BALART, GEORGE

MILLER, DAVID MCINTOSH, HENRY WAXMAN, STEVE CHABOT, ENI FALEOMAVAEGA, THOMAS DAVIS, ROBERT TORRICELLI, MARK SOUDER, ED PASTOR, JON FOX, CYNTHIA MCKINNEY, MATT SALMON, ELIOT ENGEL, ROBERT MENENDEZ, and our former colleague Ham Fish.

I also remain deeply concerned that the bill would deny the Federal courts their historic role in overseeing the implementation of our immigration laws and review of individual administrative decisions. This bill will not allow judicial review whether a person was actually excludable and will create unjustified exceptions to rulemaking procedural protections under the Administrative Procedure Act.

This bill signals a fundamental change in the roles of our coordinate branches of Government and a dangerous precedent. Judicial review has often been a source of accountability for the executive branch. The bill eliminates that oversight and weakens protection that serves to make sure that the Executive is following the law. Over 90 law professors had written to us on this point on July 29. Their wise counsel is being ignored at our peril.

The summary exclusion and asylum provisions of the bill remain among its most extreme and unnecessarily harsh provisions. At the eleventh hour, after the House approved the conference report, there have been attempts to meet to create a better bill, but those truncated talks have done nothing to improve the asylum and summary exclusion provisions on which the congressional Republicans remain insistent.

Let me briefly outline adjustments that could have been made to preserve our asylum system while continuing to reform our processes as needed. The bill takes several giant steps backward from the bipartisan Senate effort in May to preserve our asylum process. We were successful in the only vote taken on the matter of summary exclusion and asylum in either House. I feel strongly that the Leahy-DeWine approach is a much more fair and balanced approach than that taken in the bill. We are now being forced to consider a bill that would have the effect of summarily excluding refugees from around the world who seek to come to America for freedom from oppression.

Within the past 2 weeks the Washington Times, the New York Times and the Washington Post have each published strong editorials condemning the asylum provisions of the Republican conference report. The Washington Times concluded: "As lawmakers weigh these issues, they ought to keep in mind the following question: How would I feel about these rules if it were I who was applying for asylum?"

In the interest of bipartisan compromise I was prepared to offer a motion and an amendment to preserve the essence of our asylum system while adding additional requirements for expedited consideration of claims for asylum. It is that motion and amendment that Chairman SMITH of the House and Chairman HATCH of the Senate ruled out of order at the meeting of House and Senate conferees on September 17.

The Leahy amendment would allow summary exclusion procedures if they are needed in an extraordinary migration situation, as designated by the Attorney General, rather than require their use at all times. This is what the administration requested, in contrast to the universal use of summary exclusion that the extremist measures in the bill will require. The Department of Justice has indicated that, except for a future migration emergency, they can handle asylum claims without resort to summary exclusion and the amendment, like the Senate immigration bill, would have provided such standby authority.

The Leahy amendment would incorporate an international recognized standard for screening asylum claims rather than forcing refugees back into the hands of their oppressors. It would require asylum seekers to show that their claims were not manifestly unfounded in order to receive a full hearing and examination of their circumstances. That is the standard that the United Nations High Commissioner on Refugees and the international community strongly favors and the standard consistent without treaty commitments.

The Leahy amendment would preserve limited and narrow habeas corpus review to provide an opportunity to correct erroneous administrative action, which may in many cases by a matter of life or death. The bill seeks to choke off judicial review at every turn. We do not need less accountable government action and unfettered discretion being exercised by overburdened immigration agents to the detriment of refugees fleeing oppression. The New York Times wrote that this is one of the principal reasons it believes this "a dangerous immigration bill." It observed that Republicans as well as Democrats ought to be alarmed by the prospect of unrestricted executive power without judicial review and accountability.

The Leahy amendment would treat refugees more fairly during the initial interview and tried to eliminate artificial barriers to screen out what may be valid asylum claims. By acting summarily before the refugee has a sense that it is okay to speak of the persecution and fear from which he or she is seeking refuge, the bill will screen out the unwary, the unschooled, and the uncertain who will be reluctant to talk about the persecution that compelled them to seek refuge and freedom in America.

The Leahy amendment would only impose a limitations period on asylum claims that are raised for the first time defensively to ward off deportation rather than impose an arbitrary 1-year limit on all asylum claims. If the use of asylum claims defensively to ward off deportation is the problem, let us deal with that problem and not penalize refugees with valid asylum claims who were too traumatized or fearful to come forward until they had gotten settled in this new land.

We need not gut our asylum law by allowing low-level bureaucrats to make life-and-death decisions through summary exclusion at the border. Our country has a proud tradition of protecting victims of persecution and serving as a beacon of hope and freedom. We need not and should not forsake it. This compromise Leahy amendment would give real refugees a fair opportunity to present their circumstances and seek asylum.

We do not have to turn our backs on America's traditional role as a refuge from oppression and resort to summary exclusion processes that the Washington Times, the Washington Post and the New York Times agreed are unwise and unnecessary.

I was pleased last week to appear with Bishop Murry from the National Conference of Catholic Bishops and Martin Kraar of the Council of Jewish Federations. They along with the American Bar Association and many others appreciate what this rewrite of our asylum laws by the bill would mean.

I want to recognize all those who have come forward to work with us to try to preserve the asylum process. Support has come from a wide variety of sources: The Committee to Preserve Asylum, UNITE, the American Jewish Committee, the National Asian Pacific American Legal Consortium, the Lawyers' Committee for Human Rights, the U.S. Catholic Conference, the American Bar Association, the American Friends Service Committee, the American Immigration Lawyers Association, the Asian Law Caucus, the Hebrew Immigrant Aid Society, the Lutheran Immigration and Refugee Service, the Asian American Legal Defense and Education Fund, the Domestic and Foreign Missionary Society of the Protestant Episcopal Church, the Mexican American Legal Defense and Educational Fund, the United Church Board for World Ministries, the ACLU, the National Asian Pacific American Legal Consortium, Amnesty International USA and the Women's Commission for Refugee Women and Children. I look forward to continuing our efforts and ultimately prevailing on these fundamental issues.

The bill fails to take into account the unfortunate but all too real circumstances that exist in repressive regimes around the world. Refugees flee by all sorts of means, including using false documents and escaping through

third countries en route to the United States. The bill would punish asylum seekers who are afraid to apply to their government for proper travel documents and identification papers.

Raoul Wallenberg received international recognition for rescuing tens of thousands from Nazi persecution by issuing Swedish identity papers and arranging transport to Sweden. Oskar Schindler saved many lives by securing false documents and identities. As many as 10,000 Jews fled the Holocaust through Asia with the noble assistance of Chiune Sugihara, a Japanese diplomat who disobeyed his government and issued them visas. Do we really mean to disadvantage the claims of those who, like the beneficiaries of the courageous work of Oskar Schindler, Raoul Wallenberg and Chiune Sugihara during World War II, needed false travel documents? I hope not.

I am confident that consideration of asylum claims can take false documents into account without making them a barrier to full review. The asylum provisions in the bill would place undue burdens on unsophisticated refugees who are truly in need of sanctuary but may not be able to explain their situation to an overworked asylum officer. Had similar provisions been in place during World War II, those saved by Raoul Wallenberg, Oskar Schindler and Chiune Sugihara could have been summarily excluded because they used false documents to escape the Holocaust.

Refugees seeking asylum in the United States come to us for protection. Let us not turn them back. Let us not abandon America's vital place in the world as a leader for human rights.

I ask unanimous consent that following my statement there be printed in the RECORD letters from the UNHRC Lawyers Committee for Human Rights and law professors.

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

UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, BRANCH OFFICE FOR THE UNITED STATES OF AMERICA,
Washington, DC, September 20, 1996.

Re Asylum and summary exclusion provisions of the immigration bill (proposed conference report H2202).

Hon. ORRIN HATCH,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN HATCH: I am writing to you regarding the draft Conference Report referenced above. In our previous letter to you, we expressed our concerns regarding the summary exclusion provisions of the prior House bill. Although the Senate version included Senator Leahy's amendment revising the Senate summary exclusion provision to comport with international standards for adjudicating refugee claims, we note that the proposed Conference Report does not include these changes. Our Office continues to urge the adoption of the Senate version of summary exclusion and remains concerned that the proposed "expedited removal" provisions in the proposed Conference Report and several other provisions, if enacted, would almost certainly result in the US returning refugees to countries where their lives or freedom would be threatened.

The following provisions of the proposed Conference Report, outlined in greater detail below, are of particular concern to our Office:

1. Expedited Removal (Section 302); (a) Examination at Port of Entry; (b) "Credible Fear" Standard; (c) Detention; (d) Administrative Review; and (e) Access to Counsel.

2. Numerical Limitation on Asylum Grants (Section 601).

3. Exceptions to Ability to Apply for Asylum (Section 604): (a) Asylum Filing Deadlines; and (b) Safe Third Country.

4. Bars to Asylum and Withholding of Deportation for Persons Convicted of Aggravated Felonies (Section 241(b) and 604).

5. Asylum Filing and Employment Authorization Fees (Section 604).

6. No Automatic Stay of Deportation pending Judicial Review (Section 306).

1. *Expedited Removal* (Section 302)—This section allows the expedited removal, without further hearing or review, of certain "applicants for admission." An "applicant for admission" is defined as anyone in the US who entered illegally or a person seeking entry. Section 302(b) would permit an immigration officer to issue a final order of removal for such applicants, if s/he determines that such applicants have false documents or no documents, if; (1) They cannot prove they have been in the US for the prior two-year period of (2) they are arriving in the US and fail to indicate an intention to apply for asylum or a fear of persecution.

At a port of entry, those who indicate that they are asylum-seekers but who are unable to establish a "credible fear" of persecution to an asylum officer shall be similarly removed. "Credible fear" of persecution is defined to mean that "there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum." Review of the credible fear determination will be conducted by an immigration judge and is to be concluded if possible within 24 hours and no later than 7 days after the removal order. Prior to the credible fear interview, asylum-seekers may consult a person or persons of their choice, but any consultation must be at no expense to the Government and must not "unreasonably delay the proceedings."

UNHCR is concerned that this process fails to incorporate international standards for refugee status determination. We stress that the summary nature of the proceedings in the proposed Conference Report is reflected in the lack of appellate rights, and that, therefore, it is all the more important that the initial examination and interview process not be "summary." We note our concerns below:

a. *Examination at Port of Entry*—"Screening" of arrivals in the US must be conducted with procedural safeguards in place to ensure that refugees are not excluded. Section 302 fails to provide these safeguards. Special risks for refugees are inherent in the expedited process as proposed by this section, in which there is no review of an order to exclude. All persons seeking entry must be given guidance as to the procedure, orally and in writing, in a language they can understand, before an initial examination so that they are aware of the consequences of failing to come forward with their asylum claim at that time. Although this section provides that information shall be given concerning an asylum interview, it fails to provide for guidance at this critical point. Given the dual role of the immigration officers conducting the initial examinations (border enforcement and selection of those who merit a credible fear determination), they should have a list of questions designed to identify asylum-seekers, as well as training in interviewing skills. There must be meaningful review of all "expedited removal" orders, given the consequences of a mistaken decision.

b. *"Credible Fear" Standard*—UNHCR urges you and members of the Committee to reject any provision that requires asylum-seekers, before they are allowed the opportunity to present their claims for asylum to an immigration judge, to establish a "credible fear" of persecution, as defined above. Such a requirement creates a new, heightened standard which increases the likelihood that a refugee will be returned to a country where his/her life or freedom would be threatened, especially given the fact that review is expedited, applicants are detained during this process, and there is limited access to legal representation. UNHCR recommends that asylum-seekers who establish that their claims are not "manifestly unfounded" be accorded the opportunity to present their asylum claims in a hearing before an immigration judge. This provision comports with the international standard for expeditious refugee status determinations as set forth in UNHCR Executive Committee Conclusion No. 30 (1983).[1]

Moreover, certain types of claimants, e.g., torture or trauma victims and those with gender-related claims, will have difficulty stating their claims, much less establishing "credible fear." Some at-risk groups, such as unaccompanied minors, should not be subjected to summary procedures at all. Others, with novel or complex claims, such as persons fleeing situations of international or internal armed conflict, or torture survivors who should be protected by the Convention against Torture, should be provided with a full exclusion hearing. These claimants are at great risk of being returned to persecution if they must meet the heightened standard created by the expedited removal provisions.

c. *Detention*—This provision also mandates that an applicant who has been determined to have a credible fear of persecution remain in detention for further consideration of the application for asylum. In the view of the hardship that it involves, as noted in UNHCR Executive Committee Conclusion No. 44, detention should normally be avoided, particularly when the elements on which the asylum claim is based have been determined. Asylum-seekers who have met this heightened standard should be released pending further consideration of their claims.

d. *Administrative Review*—In the proposed Conference Report, the provision for review of a negative "credible fear" determination and expedited removal order requires that the immigration judge conduct the review "as expeditiously as possible," and recommends it be concluded within 24 hours. Moreover, this review may be conducted telephonically or by video, inadequate methods when credibility is at issue. Minimum

*Footnotes to appear at end of letter.

procedural guidelines for refugee status determinations, as set forth in UNHCR Executive Committee Conclusion No. 8 (1977) specify that an applicant should be given a reasonable time to appeal for a formal reconsideration of the decision. These procedures do not comport with the guidelines noted above.

e. *Access to Counsel*—The Proposed Conference Report permits an asylum-seeker to consult with a person of his or her choosing, at no cost to the Government and as long as such consultation does not "unreasonably" delay the proceedings. These limitations to consultation in the context of an expedited removal process should be consistent with guidelines that asylum-seekers be given the necessary facilities for submitting their claims to the authorities, including meaningful access to counsel and to the services of a competent interpreter and the opportunity to contact a representative of UNHCR. These factors, set forth in UNHCR Executive Committee Conclusion No. 8 (1977), should be taken into consideration in assessing whether a delay is "unreasonable."

2. *Numerical Limitation on Asylum Grants* (Section 601)—This section, which expands the definition of refugee to include persons who have been subjected to or who have a well-founded fear of coercive population control methods, limits to 1000 per year the number of individuals who may be admitted to the US as refugees or *granted asylum* under this expanded definition. By placing a numerical limitation on this category of asylum-seekers, the Attorney General may return an individual to a country where his or her life or freedom would be threatened merely because the numerical limit has been reached. Such an action would place the US in violation of its obligations under the 1967 Protocol.

3. *Exceptions to Ability to Apply for Asylum* (Section 604)—This section creates certain bars to the application for asylum. Moreover, there is no judicial review of a decision to bar an application under the following provisions.

a. *Asylum Filing Deadlines*—A time limit for filing an application has been included, which, if not met, bars individuals from seeking asylum. Individuals may not apply unless they demonstrate by clear an convincing evidence that the application has been filed *within one year after the date of the person's arrival* in the US, *unless* they demonstrate to the satisfaction of the Attorney General either (a) the existence of changed country conditions which materially affect the person's eligibility for asylum or (b) *extraordinary circumstances* relating to the delay in filing within one year.

UNHCR recommends that these deadlines be deleted. Failure to submit an asylum request within a certain time limit should not lead to an asylum request being excluded from consideration, as outlined in UNHCR Executive Committee Conclusion No. 15 (1979). The United States is obliged to protect refugees from return to danger regardless of whether a filing deadline has been met. There are a number of legitimate reasons why asylum-seekers would not be aware of or able to comply with a deadline for submitting applications, such as lack of information about the asylum process, preoccupation with meeting basic survival needs, inability to communicate in English, and insufficient resources for obtaining counsel.

b. *Safe Third Country*—Individuals may not apply for asylum or may have their asylee status terminated if the Attorney General determines that they may be removed, pursuant to a bilateral or multilateral agreement, to a country (other than their country of nationality (or last habitual residence if no nationality)) in which their lives or freedom would not be threatened on account of one of the five grounds and where they would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection, *unless* the Attorney General finds that it is in the *public interest* for the person to receive asylum in the U.S. UNHCR recommends that these provisions be deleted or modified in light of international guidelines, the wider context of global responsibilities for refugee protection, and principles of international responsibility-sharing. Moreover, these provisions appear to authorize the denial of the right to apply for asylum to certain nationalities or groups. These provisions also authorize the sending of an asylum-seeker or asylee to a country in which she might suffer forms of persecution not rising to the level of a threat to life or freedom. While no universally accepted definition of "persecution" has been adopted by the international community, it is widely accepted that other serious violations of human rights, in addition to threats to life or freedom, constitute persecution when linked to race, religion, nationality, membership of a particular social group or political opinion. *Handbook on Procedures and Criteria for Determining Refugee Status* (Geneva 1988) (hereinafter *Handbook*) at para. 51.

4. *Asylum and Withholding of Deportation for Persons Convicted of Aggravated Felonies* (Sections 241(b), 604)—Section 241(b) bars the removal of refugees to countries where their lives or freedom would be threatened and codifies the exceptions to this bar, most of which are exceptions currently found in INS regulations. This section codifies the provision that refugees who have been convicted of an "aggravated felony (or felonies)" for which the sentence to imprisonment is at least five years shall be considered to have committed a particularly serious crime and will not be protected from removal.

Section 604 broadens the definition of "aggravated felony" to include a much greater number of crimes than previously were in this category. It would include, for example, certain crimes for which a term of imprisonment imposed is one year (previously this was five years). It also codifies current regulations that bar a grant of asylum to individuals who have been convicted of a particularly serious crime and provide that a conviction of an aggravated felony shall be considered to be a conviction of a particularly serious crime. This section also allows the Attorney General to designate by regulation offenses that will be considered to be particularly serious crimes or serious non-political crimes, permitting further expansion of the categories of crimes that would bar a grant of asylum.

These sections, therefore, bar individuals from the protection of non-refoulement[2] if they have been convicted of an "aggravated felony" for which the sentence imposed is at least five years, and bar individuals with a well-founded fear of persecution from the protection of asylum regardless of the sentence imposed. Article 33 of the 1951 Convention relating to the Status of Refugees, binding on the US through its incorporation into the 1967 Protocol, requires that before returning a person fearing a threat to life or freedom in his or her country of origin, the country concerned must make a case-by-case determination whether the person has been convicted of a particularly serious crime and constitutes a danger to the community.

Under current law, the recently enacted Antiterrorism and Effective Death Penalty Act (AEDPA), the Attorney General, in her discretion, may grant withholding of deportation to ensure compliance with the 1967 Protocol. It appears that this provision may no longer be in effect if the proposed Conference Report becomes law. It is our opinion that the waiver in AEDPA should still be available and that it permits the Attorney General to conduct case-by-case determinations in the cases of individuals who have been convicted of an "aggravated felony" to determine whether the crime is a particularly serious crime and whether the individual is The "particularly serious crime" exclusion ground should only be invoked in "extreme cases" and only after a balancing test has been applied, weighing the degree of persecution feared against the seriousness of the offense committed. These principles are set forth in our *Handbook* at paras. 154 and 156. The need for a balancing test is even more urgent in light of the proposed provisions expanding the definition of "aggravated felony" to include many crimes for which the sentence imposed is one year, and giving the Attorney General the power to designate other offenses as "aggravated felonies."

5. *Asylum Filing and Employment Authorization Fees* (Section 604)—This section permits the Attorney General to impose a fee for applications for asylum and employment authorization. UNHCR is concerned that any fee imposed for filing an asylum application may have the unintended effect of discouraging refugees from realizing their fundamental right to seek and enjoy asylum. UNHCR's Executive Committee in Conclusion No. 5 (1977) "appealed to Governments to follow, or to continue to follow, liberal practices in granting permanent or at least temporary asylum to refugee. . ." UNHCR is particularly concerned about the precedent that the imposition of a fee will set for the international community.

Likewise, UNHCR is concerned about the imposition of a fee for employment authorization, UNHCR Executive Committee Conclusion No. 22 (1981) states that asylum-seekers "should receive all necessary assistance and be provided with the basic necessities of life, including food, shelter, and basic sanitary and health facilities." Under current law, asylum-seekers are not eligible for employment authorization unless their claim has been pending for over 180 days. UNHCR urges that a fee not be imposed, especially in light of the fact that asylum-seekers are not eligible for benefits which satisfy the basic necessities of life.

6. Stay of Deportation Pending Judicial Review (Section 306)—This section eliminates the automatic stay of deportation to individuals, including asylum seekers, who have been issued an order of removal by an immigration judge and appeal this decision to a federal appeals court. UNHCR urges the US to preserve the automatic stay of deportation for asylum-seekers in order to ensure compliance with minimum procedural safeguards. UNHCR Executive Committee Conclusion No. 8(1977) provides that asylum applicants "should . . . be permitted to remain in the country while an appeal. . .to the courts is pending.

Your consideration of UNHCR's views is greatly appreciated. Please do not hesitate to contact me if I may provide additional information or assistance to you, your Committee members or other members of Congress.

Sincerely,

ANNE WILLEM BIJLEVELD,
Representative.

FOOTNOTES

[1]The UNHCR Executive Committee is a group of representatives from 50 countries, including the United States, that provides policy and guidance to UNHCR in the exercise of its refugee protection mandate.

[2]The principle of non-refoulement, incorporated into U.S. law in the withholding of deportation statute, Section 243(h) of the Immigration and Nationality Act, is set forth in Article 33(1) of the Convention, as follows: "No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." Article 33(1) of the Convention.

LAWYERS COMMITTEE
FOR HUMAN RIGHTS,
Washington, DC, September 24, 1996.

DEAR SENATOR LEAHY: We write to urge you to vote against H.R. 2202, the pending immigration bill, which we understand will soon come before you for a vote. The bill is fundamentally flawed in that it seeks to restrict the rights of refugees in the context of efforts designed to control illegal immigration. H.R. 2202 contains extreme measures that will severely impair the internationally-recognized right of refugees to seek and enjoy asylum. If the bill is passed, it will transform U.S. law from a system designed to protect victims of persecution to a system designed to punish them.

H.R. 2202 contains numerous provisions that would threaten the lives of refugees. Some of these provisions were examined and rejected by the Senate; others were never even considered. In particular, H.R. 2202 would: 1) summarily exclude, without meaningful access to counsel or review, asylum-seekers who arrive in the United States without proper travel documents; and 2) apply a strict deadline on the filing of all asylum applications. In our extensive experience representing asylum-seekers, we have seen first hand the many barriers—language, fear for family members, post-traumatic stress disorder—a refugee must overcome in order to apply for and gain safe haven. Blanket summary exclusion and strict time deadlines for filing asylum applications are hurdles that many of the most deserving refugees simply will not be able to cross. Enacting H.R. 2202 will, without question, result in victims of torture, rape and other extreme forms of persecution being denied protection. This violates not only our international treaty obligations, but our commitment as a nation to protect the rights of the persecuted. We urge you to do all you can to prevent it.

Sincerely,

ELISA MASSIMINO.
MICHAEL POSNER.

SEPTEMBER 17, 1996.

Hon. PATRICK LEAHY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: I, like many Americans, am deeply concerned about the proposed restrictions on political asylum contained in the immigration bill now before Congress. Of particular concern to me are two provisions: a filing deadline on asylum applications and summary exclusion procedures.

As a member of the Board of Directors of the Lawyers Committee for Human Rights, I have had the unique opportunity to meet and speak with clients of the Committee's pro bono Asylum Representation Program. Asylum seekers are people who must flee from danger in their homelands to safer, more politically stable countries. They are men, women and children, doctors, journalists, students and others from all walks of life who are persecuted in their homelands for religious or political beliefs, ethnicity or race. Some flee to Europe, South America, or Asia; others to the United States. The right of a refugee to seek protection from persecution was incorporated into U.S. law in the Refugee Act of 1980 and is guaranteed under the U.N. Convention Relating to the Status of Refugees. Last year, the U.S. granted asylum to fewer than 8,000 individuals, representing less than one percent of asylum seekers worldwide.

In the following pages, you will hear the personal stories of six asylum seekers and you will see how the proposed restrictions would have irrevocably and tragically changed the course of their lives. These asylees came to the Lawyers Committee, where they were represented before the INS by volunteer attorneys. The staff and volunteers of the Committee know the obstacles asylum seekers face—the trauma experienced by torture victims, the concern for the safety of family members back home, the disorientation of a new culture and a new language. The Committee also has analyzed hundreds of asylum cases to study the potential effects of the proposed restrictions. Both their findings and experience clearly show that, if enacted, a strict filing deadline and summary exclusion procedures will force genuine refugees back to their homelands to face persecution, torture and perhaps death.

The United States has long been a symbol of freedom, opportunity and hope for refugees fleeing Nazi Germany, war-torn Rwanda, and other ravaged states. Let us defend this legacy and preserve a refugee's right to seek protection and safety. The proposed restrictions would not only violate our international treaty obligations but would betray our nation's commitment to respect basic human rights.

Sincerely,

SIGOURNEY WEAVER.

JULY 29, 1996.

DEAR CONFEREE: We, the undersigned professors of law, are writing to express our concerns about provisions in the pending immigration legislation that would eliminate or severely curtail judicial review. Efficiency in the enforcement of our nation's laws is important, but this goal is not well served by enacting legislation that has potentially serious constitutional problems.

Proposals are now pending in Congress that would radically reduce and, in some cases, eliminate the most fundamental safeguard of judicial review in individual cases and judicial oversight over the deportation process as a whole. These proposals, like the recently enacted antiterrorism law, are exceptional in their scope and threaten basic principles upon which our legal system is founded.

The House-passed immigration bill, like the antiterrorism law which, unless repealed in the pending immigration legislation, bars judicial review of deportation orders based on certain nonterrorism grounds, establishes a summary exclusion provision where an immigration officer would have final unreviewable authority to exclude and deport international travelers and asylum seekers, and strips the federal courts of jurisdiction to review any individual claim or class action challenges arising from these procedures. Additionally, the House-passed bill provides that "no court shall have jurisdiction" to review certain waiver decisions of the Attorney General, and limits injunctive relief with regard to certain provisions "regardless of the nature (of the action or claim or of the identity of the parties bringing the action.)" The Senate-passed immigration bill denies judicial review of Attorney General denials of discretionary relief and orders of deportation based on criminal convictions.

These proposals grant agency authority to take constitutionally questionable action and raise issues of constitutional dimensions wholly apart from the immigration context and the rights of immigrants. The most basic safeguards of due process are threatened, along with the elimination of a meaningful role for the judiciary to perform its historic function of reviewing the implementation and execution of law. The proposals also implicate the separation of powers structure of our government by undermining the judicial roles to protect due process and safeguard individual rights and to review the actions of the Executive Branch. Congress cannot exercise its power in a way that deprives any person of life, liberty or property without due process of law.

Moreover, we believe that these legislative proposals are not premised on any study or empirical data demonstrating a need to eliminate a process that affords full and fair hearings with administrative and judicial review. The federal judiciary plays an essential role in this scheme, interpreting the laws and ensuring that the executive branch complies with them. The process of judicial review helps insure that administrative officers implement the laws in a manner consistent with the intent of Congress.

We believe the proposals in the legislation are of dubious constitutionality and imprudent as a matter of public policy. Congress should take this opportunity to correct the defects in the antiterrorism law and preserve our constitutional traditions

Sincerely,

(Institutional affiliations are shown for purposes of identification only)

Anna Williams Shavers, University of Nebraska College of Law; Bruce Ackerman, Sterling Professor of Law and Political Science, Yale Law School; Harry H. Wellington, Dean, New York Law School; Susan Sturm, University of Pennsylvania Law School; Stephen H. Legomsky, Washington University Law School; Howard Lesnick, University of Pennsylvania Law School; Charles H. Koch, Jr., College of William and Mary Law School; Richard A. Boswell, University of California, Hastings College of the Law; Philip G. Schrag, Georgetown University Law Center; Jeffrey Lubbers, American University, Washington College of Law; Gerald L. Neuman, Columbia University School of Law; Michael R. Asimow, University of California at Los Angeles School of Law; Peter L. Strauss, Columbia University School of Law; Hiroshi Motomura, University of Colorado School of Law; Andrew Silverman, University of Arizona College of Law; William J. Lockhart, University of Utah School of Law; Talbot D'Alemberte, President, Florida State University; Michael G. Heyman, John Marshall Law School; Jean Koh Peters, Yale Law School;

Deborah Anker, Harvard University Law School; John Allen Scanlan, Jr., Indiana University School of Law—Bloomington; Kevin R. Johnson, University of California-Davis School of Law; Neil

Gotanda, Western State University College of Law; Pamela Goldberg, City University of New York School of Law at Queens College; Karen Musalo, Santa Clara University Center for Applied Ethics; Jeffrey D. Dillman, University of Michigan Law School; George A. Martinez, Southern Methodist University School of Law; F.J. Capriotti III, Lewis and Clark Northwestern School of Law; Mary Dudziak, University of Iowa College of Law; Yvette M. Barksdale, John Marshall Law School; Burns H. Weston, University of Iowa College of Law; Bessie Dutton Murray, University of Iowa College of Law; Daniel Kanstroom, Boston College Law School; Kenneth J. Kress, University of Iowa College of Law; Marcella David, University of Iowa College of Law; Kevin Ruser, University of Nebraska College of Law; Susan Musarrat Akram, Boston University School of Law; Lori Nessel, Seton Hall University School of Law; William C. Banks, Syracuse University College of Law; Gabriel J. Chin, Western New England College School of Law; Linda S. Bosniak, Rutgers, The State University of New Jersey School of Law; Berta Esperanza Hernandez, St. John's University School of Law;

Margaret H. Taylor, Wake Forest University School of Law; Joyce A. Hughes, Northwestern University School of Law; Carolyn Patty Blum, University of California at Berkeley, Boalt Hall Law School; Stephen W. Yale-Loehr, Cornell Law School; Ted Ruthizer, Columbia University School of Law; Craig B. Mousin, De Paul University College of Law; Enid Francis Trucios-Haynes, University of Louisville School of Law; Frank H. Wu, Howard University School of Law; Daniel J. Steinbock, University of Toledo College of Law; Guadalupe Theresa Luna, Northern Illinois University College of Law; Katherine L. Vaughns, University of Maryland School of Law; Devon Carbado, University of Iowa College of Law; Marc R. Poirier, Seton Hall University School of Law; Lenni B. Benson, New York Law School; Isabelle R. Gunning, Southwestern University School of Law; Alicia Alvarez, De Paul University College of Law; Walter J. Kendall III, John Marshall Law School; Enrique R. Carrasco, University of Iowa College of Law; Howard F. Chang, University of Southern California Law Center; Julie A. Nice, University of Denver College of Law; Kathleen Sullivan, University of California, Hastings College of the Law; Cecelia M. Espenoza, University of Denver College of Law; Ann L. Iijima, William Mitchell College of Law; Maryellen Fullerton, Brooklyn Law School;

Jonathan Weinberg, Wayne State University Law School; Angela P. Harris, University of California at Berkeley, Boalt Hall School of Law; William G. Buss, University of Iowa College of Law; Kent H. Greenfield, Boston College Law School; Gilbert Paul Carrasco, Villanova University School of Law; Douglas Stump, Oklahoma City University School of Law; Eric L. Muller, University of Wyoming College of Law; Karen Engle, University of Utah College of Law; Daniel M. Kowalski, University of Colorado School of Law; Bruce Winick, University of Miami School of Law; Ileana Porras, University of Utah School of Law; Ted Finman, University of Wisconsin Law School; John Martinez, University of Utah School of Law; Alex Tallchief Skibine, University of Utah School of Law; Daniel J.H. Greenwood, University of Utah School of Law; Susan Poulter, University of Utah School of Law; Seth F. Kreimer, University of Pennsylvania Law School; Beverly Moran, University of Wisconsin Law School; Jane Schacter, University of Wisconsin Law School; R. Alta Charo, University of Wisconsin Law School; Martha E. Gaines, University of Wisconsin Law School; Mary Twitchell, University of Florida; Stephen E. Meili, University of Wisconsin Law School; Joseph R. Thome, University of Wisconsin Law School.

TELECOMMUNICATIONS REFORM—FCC FUNDING

Mr. KYL. Mr. President, it is with great reluctance that I take the time of the Senate today to discuss an issue involving the telecommunication industry. The Federal Communications Commission—the funding of which we are now discussing—has gone far beyond congressional intent in an important area that was dealt with in the telecommunications law.

The goal of telecommunications reform legislation, in my view, was to promote competition within and among the various telecommunications-related industries, for example, local and long distance telephone providers, cable television, wireless and satellite companies. It is not possible to achieve that reform if Federal and State governments restrict competition by creating excessive regulation.

While I agree that the State and Federal governments should retain some authority to protect consumers and the public interest, it is imperative that we remove as much other governmental regulation of the telecommunication industry as possible. Too much regulation will only hinder industry growth, and deny consumers and businesses the new services and products that telecommunication reform will provide. I believe less government regulation was the intent of Congress. In his testimony before the Senate Judiciary Committee, former Attorney General William P. Barr said "the real danger to competition is that excessive, onerous regulation will prevent incumbent local exchange carriers from competing on a level playing field with new entrants. The Federal Communications Commission's recent rules purporting to implement the Telecommunications Act of 1996 highlight this danger."

Mr. President, I have been informed of several problems with the FCC's new rulings. I wish to highlight a few. For example, to encourage new entrants into the local phone markets while the companies build their own networks, I believe that Congress wanted incumbent telephone companies to resell its services at wholesale rates to any new companies wishing to buy the services. Even though I had concerns at the time, I believed that Congress' intent was to encourage more competition within the local markets without penalizing those companies who have already spent large amounts of capital building a network. Instead, the FCC, an entity whose members are not elected by the public, has taken the liberty of dictating what happens in the local telephone markets. The FCC's new rules will allow resellers to bypass the wholesale rate defined by Congress and pay significantly lower prices for network parts that are already in place.

If the FCC's new regulations are implemented, new entrants will be able to resell existing network components as a consumer service in the local market. The problem with that is that the new competitors will have little or no incentive to build their own networks. Existing companies will have no incentive to invest in network enhancements if their research and development can be used—without proper compensation—by any new entrant. As Mr. Barr said during the hearing on mergers and competition in the telecommunications industry, "under the FCC's system, it makes no sense for any competitor to develop its own network. Instead of real competition that spurs investment, creates jobs, and improves services, the end result of the FCC's rules will be a scheme of contrived 'Potemkin competition' in which so-called competitors merely rebrand services purchased below-cost from a severely handicapped incumbent LEC and create the false appearance of competition."

Another example of the FCC's overreach is the manner in which it has determined prices for certain telecommunication services. Congress recognized that a one-size-fits-all price system is not conducive to all States. The environment in North Dakota is drastically different from New York. Therefore, Congress assigned State public utility commissions the task of determining reasonable rates for interconnection and unbundled elements. The law requires that the rates be cost-based and nondiscriminatory. It also allowed for the rates to include a reasonable profit. Instead, the FCC has mandated a cost system for States to follow when setting unbundled network element prices. The Commission also set default prices for certain network elements. I have been informed that, in many instances, these prices are far below cost and could place existing telephone companies at a disadvantage. Additionally, the rules will place less value on networks that have been built while eliminating any incentive for existing companies to expand existing networks.

Clearly, as the 668 pages and 3,276 footnotes of the FCC's First Report and Order demonstrates, the Commission has gone far beyond the intent of Congress. I would ask that the chairman

and ranking member of the Appropriations Committee to make note of the FCC's failure to abide by Congress' plan for telecommunications reform. I thank them for the opportunity to express my concerns.

DEFENSE APPROPRIATIONS

Mr. THURMOND. Mr. President, I will support the Defense appropriations bill included in the omnibus appropriations bill that is before us today. I am pleased that our colleagues negotiating these issues with the administration, stood their ground on providing additional funding for defense.

While this bill and other appropriations bills provide approximately $10.8 billion above the President's budget request for defense, this is actually $8 billion less for defense, in real terms, than last year's level of funding. Does any Senator believe that we will use our military forces less in fiscal year 1997 than we did this year? I think not.

As most of my colleagues know, the administration began negotiations on the final spending levels, insisting on a substantial transfer of funds of $4 to $5 billion, from defense to nondefense discretionary accounts.

It is clear that this administration relies a great deal on our military services. It appears more likely every day that our commitments in Bosnia will not end in December as we were told. We already know that the cost of our commitment there has greatly exceeded the administration's original estimate of $2 billion and now exceeds $3.3 billion. We do not know what additional commitments might be laid on our military forces in the Persian Gulf—or as a result of the latest crisis between Israel and the Palestinians. We also do not know when or where our forces might be committed next, but I am confident that the uptempo for our servicemen and women will not decrease.

Mr. President, I want to commend the majority leader and other Members of the Senate and the House of Representatives who negotiated these agreements. Like all negotiated outcomes and compromises, no one gets everything they want. I do believe however that the additional funds provided by the Congress for defense, included in this bill, are necessary.

Mr. President, this bill will allow us to provide our servicemen and women with more modern equipment, alleviating the administration's negative funding trend for modernization; to improve quality of life for our servicemen and women, who frequently find themselves deployed away from their families for extended periods; and to increase funding for the readiness of our forces that has become increasingly strained to cover the higher uptempo and increasing costs of ongoing operations. This bill recognizes that we must maintain a strong force capable of deploying anywhere in the world at any time.

Mr. President, this bill will provide funding for much needed pay raises for our uniformed personnel. It provides funding for anti-terrorism measures to facilitate the protection of our service personnel. It funds shortfalls in the defense health care program as well as many other important programs.

I am pleased that President Clinton is no longer trying to reduce defense spending and recognizes the need for additional defense funding over his initial request. I commend my colleagues who negotiated this Defense appropriations bill. I support this bill and urge my colleagues to vote for this important piece of legislation.

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

NTIA–TIIAP PROGRAM

Mr. KERREY. Mr. President, I am pleased that the omnibus appropriations bill includes $21.5 million to fund the Telecommunications and Information Infrastructure Assistance Program [TIIAP] under the National Telecommunications and Information Administration [NTIA]. TIIAP is an important part of the ongoing effort to ensure that every American has access to advanced telecommunications services.

Unfortunately, many communities do not have access to advanced telecommunications services. This lack of access is pronounced in rural and innercity areas. House appropriators made the wise decision to fund TIIAP at $21.5 million. However, for the second year in a row, the Senate chose to cut TIIAP funding. The chairman's mark included zero funding for this important program. It was only after my insistence, and the cooperation of Senator STEVENS at full committee, that $4 million was included for TIIAP. At that time, I made it clear to the full Appropriations Committee that I would offer an amendment on the Senate floor, as I did for fiscal year 1996, to fully fund TIIAP. After negotiating with Senate appropriators and sending a letter of support for TIIAP, along with 13 other Senators to Senator LOTT , TIIAP funding was restored to $21.5 million in the omnibus appropriations package.

Access to the information superhighway is crucial for economic development and delivery of education, health care, and social services. We can ensure that every citizen has this access, whether they live in rural areas like many residents of my home State of Nebraska or metropolitan centers like New York or Washington DC, by supporting programs like TIIAP. Competing in the world job market no longer simply means working harder than our competitors abroad. Our students and workers must have access to and a strong working knowledge of the advanced telecommunications services that increasingly drive the world economy. Similarly, if we want to continue to provide the best health care in the world, Americans must have access to telemedicine facilities that allow them to work with health care specialists across the country. The importance of TIIAP to developing a strong information infrastructure should not be underestimated. I believe the Senate took a great step forward today in the battle to ensure that every American has access to advanced telecommunications services.

Mr. HARKIN. Mr. President, while I support H.R. 4278, the omnibus appropriations bill, I am strongly opposed to the inclusion in this bill of the fiscal year 1997 Department of Defense Appropriations Conference Report. I am opposed to the Defense appropriations conference agreement because it provides some $9.5 billion more to the Pentagon than it asked for or needs. At a time when we are trying to balance the Government's budget and when the cold war is over, we simply cannot justify this excessive spending to the American taxpayer.

As a former Navy pilot, I know all too well the need for a strong national defense and and the need to make sure our service personnel are properly trained, equipped, and compensated. But like the fiscal year 1996 DOD appropriations bill which provided the Pentagon $7 billion more than it asked for or needed, the fiscal year 1997 conference agreement contains excessive and wasteful spending. It asks American taxpayers to spend five times more on the military that the military budgets of all our likely adversaries combined. The $9.5 billion add on alone is three times the defense budgets of North Korea, Iraq, Iran, or Syria.

To look at it in terms of my State of Iowa, this add on of $9.5 billion is more than twice the budget for the entire State of Iowa. Iowans could fund their K–12 education system, some 500,000 pupuls in about 380 school districts, for over 3 years.

It's time for some fairness. It's time for some common sense. And fairness tells us that the Pentagon shouldn't be exempt from our efforts to balance the budget. Commonsense dictates that we can't afford $9.5 billion in add ons over what the Pentagon and the Joint Chiefs of Staff say we need to maintain a strong national defense. I opposed the fiscla year 1997 DOD appropriations bill when it was considered by the Senate and I did not sign the conference agreement. I feel strongly that it should not be approved as a part of this omnibus bill.

I will vote for this bill despite my strong opposition to the inclusion of the DOD measure because it contains significant improvements in support for education and other critical needs of our Nation. This House and Senate had proposed significant cuts to education and training. And when I tried to offer an amendment on the floor to

restore these cuts, the majority objected. So I was very pleased to work again in conference on a bipartisan basis with Senator SPECTER and others to provide the support necessary to make college more affordable for middle class Americans through increases in Pell Grants, Perkins loans, direct lending and college work study. We were also able to increase the number of children who will be able to participate in Head Start and get special assistance with reading and math skills through chapter 1. And we were able to restore unwise cuts to the President's requests for critical job training initiatives.

We must have a well-educated and well-trained work force if we are going to increase the incomes and quality of life for our working families. So these changes, while hard fought, are a real victory for working families and our future.

I am also very pleased, Mr. President, that this bill contains strong measures to combat the growing problem of illegal immigration in my State of Iowa and around the Nation. This bill contains a provision I offered in the Senate that will guarantee Iowa and other States a minimum of 10 INS agents to enforce immigration laws. This will go a long way to cracking down on this growing problem.

ELECTRONIC COMBAT TESTING

Mr. MACK. Mr. President, for some time now I have been following the Department of Defense's plans relative to electronic combat testing. Last year, I engaged in a colloquy with the good Senator from Alaska, Senator STEVENS, to clarify the Defense Appropriations Subcommittee's intention in their request that DOD provide Congress with an electronic combat master plan. At that time, I believe we made it perfectly clear that the master plan should provide optimum asset utilization.

Given this background, I am sure you can understand my surprise and dismay earlier this year when a report came back to the Congress which did not contain so much as one dollar sign. Again, I say there was absolutely no reference to any cost analysis supporting the Department's recommendations in their master plan.

Since DOD was apparently unwilling or unable to provide any justification for their recommendations, I asked the GAO to review DOD's electronic combat testing and their master plan.

After learning of the preliminary results of a now nearly complete GAO investigation, I understand why DOD failed to include in their master plan any justification for their recommendations.

Simply put, there does not appear to be any mission or cost justification to support DOD's recommendations. Indeed, preliminary reports from the GAO investigation indicate that the master plan would result in substantially increased costs, while providing diminished capabilities.

Given this background, I am sure you can understand my concern over one of the recommendations in this master plan to move test and evaluation activities from Eglin, AFC, located in northwest Florida. This feeling is exacerbated by the fact that nearly 2 years before the issuance of this master plan, the Base Closure and Realignment Commission [BRAC] recognized previous DOD findings which ranked Eglin, AFB as highest military value of all the DOD electronic combat [EC] ranges. Accordingly, the BRAC provided that selected EC capabilities at Eglin, AFB be sustained "to support Air Force Special Operations Command (AFSOC), the USAF Air Warfare Center, and Air Force Material Command Armaments/Weapons Test and Evaluation activities. . ."

Unfortunately, it appears DOD's electronic combat master plan demonstrates that the Air Force, with the tacit endorsement of the Office of the Secretary of Defense, fully intends to dismiss the direction of the BRAC.

To address concerns about DOD's actions on this matter, the Congress has provided funding in the fiscal year 1997 Defense appropriations bill to insure that Eglin, AFB range capabilities are adequate to comply with the BRAC intent to sustain selected EC capabilities to meet present and future requirements of AFSOC testing and training, AWC electronic combat testing, and AFMC testing and evaluation.

I ask the chairman of the Defense Appropriations Subcommittee, Senator STEVENS, his intentions with respect to the funding provided.

Mr. STEVENS. As my good friend from Florida has already stated, we have been following this issue for some time now. I share his disappointment over the failure of DOD to provide a useful report by which the Congress can evaluate their recommendations.

I look forward to reviewing the GAO's findings on this matter. I am confident that these issues will be discussed during future Defense subcommittee hearings with DOD officials.

In the interim, the Defense Appropriations Subcommittee has provided funding to insure the Eglin range can maintain and improve its EC capability, including instrumentation, consistent with the BRAC recommendations.

Mr. MACK. Mr. President, I thank my good friend from Alaska for his interest in this matter.

I would like to elaborate further on what I have been informed is the minimum capability required to meet the needs of the users identified by the BRAC. It is my understanding that this should include fully instrumented, fully capable threat systems/simulators for the SADS-IIR, SADS-III, SADS-IVR, SADS-V, SADS-VIR, SADS-VIIIR, SADS-XI, SADS-XII, WEST-XR, WEST-XI, and flycatcher threats. Additional technique generators, target signature generators, environment generators, on-site data processing, and site support facilities are required at Eglin range sites in order to optimize the development of mission data required to support current and future worldwide operations of U.S. forces.

Moreover, I am told that much of the instrumentation and support facilities identified herein exist today and are designed to provide the flexibility needed for characterizing future threat systems as they are identified and become available. I have been informed that upgrades to these capabilities are the most cost-efficient approach to addressing future requirements and consistent with the BRAC decision.

The funding provided by the Congress allows for the maintenance and improvement of those systems most critical for electronic combat training. I appreciate the support of the chairman of the Defense Appropriations Subcommittee in providing this funding and look forward to continuing to work with him on this matter in the coming year.

Mr. LEAHY. Mr. President, the continuing resolution is a massive piece of legislation. I want to comment on some of the provisions in this bill that may not be big-ticket items but are of particular significance in addressing the crime problems facing our Nation and ensuring that our citizens are able to obtain FBI records to which they are entitled under our public access laws.

FBI PROCESSING OF FOIA AND PRIVACY ACT REQUESTS

The legislation appropriates $3,327,000 to the FBI to address backlogs in the processing of requests for agency records under the Freedom of Information Act [FOIA] and Privacy Act. By letter, dated July 8, 1996, to the Appropriations Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies, Senator SPECTER and I urged this amount be appropriated. While the FOIA requires that agencies respond to requests for agency records within 10 business days, most agencies do not meet this legal requirement, resulting in huge backlogs of FOIA requests. The FBI's backlog is among the largest. On May 31, 1996, the FBI had a backlog of 15,259 requests, with some requests dating back to 1992. Long delays in access—particularly delays of almost 4 years—really means no access at all for many requesters.

A cornerstone of our democracy is the people's right to know about the actions of their Government. The FOIA represents Congress' implementation of this basic principle. The FOIA sets out the procedures by which people

may request information from the Federal Government. Federal agencies must provide the information in a timely manner, unless it falls within enumerated exemptions from the FOIA.

The funds earmarked for FOIA and Privacy Act request processing represents an important effort to address this huge backlog. In addition, the electronic FOIA amendments, which I sponsored with Senators BROWN and KERRY, provides a number of steps to make the process of requesting agency records easier and faster. These Electronic FOIA amendments unanimously passed the Congress on September 18. Even as the size of the Federal Government shrinks, we must keep it responsive to the people.

FBI COMPUTER INVESTIGATIONS THREAT ASSESSMENT CENTER

This legislation appropriates to the FBI $5,013,000 and 17 agents to establish a Computer Investigations Threat Assessment Center [CITAC] at FBI headquarters to identify, investigate, and counter illegal intrusion into Government computer networks. This is an important development.

As our Federal agencies increasingly depend on computers to perform their mission, the risk of computer crime has become a more significant threat to our public safety and national security. For example, the Department of Defense relies on computers to deploy, feed, supply, and communicate with troops. Yet, the GAO recently reported that 250,000 computer attacks were occurring each year at DOD. We know that in 1994, a computer hacker based in the United Kingdom was able to break into the Rome Laboratory at Griffess Air Force base in New York. Just last week, computer hackers forced the CIA to take down an agency Web site because obscenities and unauthorized text and photograph changes had been made to the site and unauthorized links had been established between the CIA Web site and other sites.

Undoubtedly, the increased reliance by Government agencies on computer systems and networks presents special vulnerabilities to computer hackers and spies. I have long been concerned about this vulnerability. That is why I worked with the Department of Justice, and my colleagues, Senators KYL and GRASSLEY, on the National Information Infrastructure Protection Act, which passed the Senate unanimously, as S. 982, on September 18 and also passed the House of Representatives, as part of H.R. 3723, on September 18. This bill will increase protection for computers, both Government and private, and the information on those computers, from the growing threat of computer crime.

This establishment of CITAC will bring vital focus and attention on how to prevent computer crime and, when it does occur, how to find the perpetrators. The work of the FBI at CITAC, though focused on Government computer networks, will also have important applications for the private sector.

CALEA FUNDING

The conference agreement provides $60,000,000 to be deposited into a newly established telecommunications carrier compliance fund to fund the Communications Assistance for Law Enforcement Act [CALEA]. I was the author of CALEA, sometimes called the digital telephony law, in the Senate and applauded its passage as a necessary step to protect our public safety and national security. This law is also intended to bring much-needed sunshine and public scrutiny to the process of how wiretaps are conducted.

CALEA authorized $500,000,000 to pay for any necessary retrofitting of existing systems to come into compliance with law enforcement capability and capacity requirements to maintain its ability to implement court-ordered wiretaps. I am glad that funds are finally being appropriated for this new law.

I had serious concerns with the House proposed implementation plan, which was set out as a condition for funding in both the House passed CJS appropriations bill, and House terrorism legislation. The modified implementation plan in the Omnibus Consolidated Appropriations Act for 1997 makes sense to ensure accountability on the part of the FBI.

For example, CALEA already requires that the Attorney General publish certain information in the Federal Register for public comment, including information about law enforcement's capacity needs and cost control regulations. The conditions in the omnibus appropriations legislation would require that this information be provided on a country-by-county basis.

We should fund the digtigal telephone law. At the same time, the conditions in the modified plan for use of the appropriated funds will help ensure that the FBI complies fully with the letter and spirit of disclosure that is a hallmark of that legislation.

LAW ENFORCEMENT SUPPORT CENTER

I am delighted that Congress recognizes the contribution that is being made to immigration law enforcement by the Law Enforcement Support Center [LESC] in South Burlington, VT. This is among the most significant capacities being developed to assist Federal, State, and local law enforcement deal more effectively with criminal aliens. Improving the identification and expediting the decoration of criminal aliens responsible for violent crimes are goals on which there is universal agreement.

The Violent Crime Control and Law Enforcement Act of 1994 authorized the Law Enforcement Support Center. Last year, I had a colloquy on the Senate floor with the Senate Appropriations Subcommittee chairman clarifying that the Senate-passed appropriations bill allowed the LESC to continue to receive its authorized funding.

This is only online national database available to identify criminal aliens. It is a valuable and essential asset for improving our national immigration enforcement effort. The LESC provides local, State, and Federal law enforcement agencies with 24-hour access to data on criminal aliens. By assisting in the identification of these aliens, the LESC allows law enforcement agencies to expedite deportation proceedings against them.

In its first year of operation, the LESC identified over 10,000 criminal aliens as aggravated felons. After starting up with a link to law enforcement agencies in one county in Arizona, the LESC expanded its coverage to that entire State. The LESC is expected to be online with California, Florida, Illinois, Iowa, Massachusetts, New Jersey, Texas and Washington, as well as Arizona this year.

The Law Enforcement Support Center deserves our full support. The Omnibus Consolidated Appropriations Act for 1997 increases the support by adopting the increased authorization that Senator HUTCHISON and I offered to the Senate immigration bill when it was considered last May. By increasing to $5 million a year the authorization of the LESC we demonstrate our commitment to effective assistance to State and local law enforcement.

CARRYOVER FUNDS FOR COPS MORE PROGRAM

The conference agreement includes $1,400,000,000 for the Community Oriented Policing Services [COPS] and $20,000,000 for the Police Corps Program. This funding is to be used to maintain the commitment to hire 100,000 new police officers. This is a commitment the Congress and the President made in the 1994 Violent Crime Control Act, and I am pleased that we are keeping our promise. Importantly, funds available for prior year carryover may be used for innovative community policing programs, so long as reprogramming requirements are satisfied. This ensures that our State and local law enforcement have the flexibility they need to spend this money they are granted when and how they need to, within the broad parameters set by Congress.

Mr. BYRD. Mr. President, in the Interior section of this bill, there is a provision dealing with Alaska subsistence. In the official papers, the word "prepare" is left in the language, contrary to the agreement reached with the administration early Saturday. I would like to clarify with the subcommittee chairman that this technical error is not intended to be a precedent for future years.

Mr. GORTON. I agree.

LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION PROGRAMS

Mr. SPECTER. Mr. President, the bill that is before the Senate today provides $71.087 billion in discretionary budget authority for the Departments of Labor, Health and Human Services, and Education, and related agencies for fiscal year 1997. Mandatory spending totals $219.5 billion, an increase of $19 billion over the fiscal 1996 levels.

The conference agreement provides substantial increases in education programs—$3.5 billion over last year. Medical research is increased by more than $820 million, and workplace safety programs by almost $79 million over the 1996 appropriated levels.

While I support the funding levels for programs within my subcommittee's jurisdiction, as I stated on Saturday, I am concerned with the process which produced this omnibus appropriations bill. I am concerned because the procedure undercut the traditional appropriations process. The Labor, Health and Human Services, and Education bill never even came to the Senate floor because it was anticipated that it would be very contentious and that many diverse amendments would be offered. Last year's bill was not finished until April 25, but on that bill Senate HARKIN and I came forward with a bipartisan amendment to add $2.7 billion so that we could have adequate funding for Labor, Health and Human Services, and Education. We demonstrated that the subcommittee chairman and ranking member can work together in a harmonious manner and really get the job done. But this year on the Senate floor, we have seen biding wars to gain political advantage by adding funding and legislation to appropriations bills. This led us to a position where we have had to go to this single omnibus bill, and where we had to negotiate with the White House to produce a bill the President would agree to before the end of the fiscal year today.

As I have said, I am proud of the work, the bipartisan, work done on the Labor, Health and Human Services portion of this bill. I want to thank the distinguished Senator from Iowa, Senator HARKIN, for his hard work and help in bringing this bill through the committee and through the negotiations with the House and the administration.

The important programs funded within this subcommittee's jurisdiction provide resources to improve the public health and strengthen biomedical research, assure a quality education for America's children, and job training activities to keep this Nation's work force competitive with world markets. I'd like to take the time and mention several important accomplishments of this bill.

BIOMEDICAL RESEARCH

For the National Institutes of Health, the bill before us contains nearly $12.747 billion, an increase of $820 million, or 6.9 percent, above the fiscal year 1996 level. These funds will be critical in catalyzing scientific discoveries that will lead to new treatments and cures, that in turn will reduce materially the cost of health care. Few activities of Government provide greater promise for improving the quality, and reducing the costs, of health care for all Americans than our investment in medical research.

SUBSTANCE ABUSE EDUCATION AND PREVENTION

Substance abuse prevention and treatment programs are increased by $207 million over 1996. The bill includes $1.310 billion for the substance abuse block grant which provides funds to States for substance abuse prevention, treatment and rehabilitation. Recognizing that drug prevention education needs to start when children are young, to teach children the skills they need to resist drug use, the bill also provides a $90 million increase for the Safe and Drug Free Schools and Communities Program.

AIDS

This bill contains over $3 billion for research, education, prevention, and services to confront the AIDS epidemic, including a nearly $239 million increase for Ryan White. The bill provides $217 million for AIDS drug assistance programs to assist states in providing the new generation of protease inhibitor drugs to persons with HIV.

HEALTHY START

Low birth weight is the leading cause of infant mortality. Infants who have been exposed to drugs, alcohol or tobacco in the mother's womb are at-risk for prematurity and low birth weight. I became directly involved in Healthy Start after visiting hospitals in Pittsburgh and Philadelphia and seeing one-pound babies, whose chances for survival were very slim. For Healthy Start, the bill provides $96 million, $20 million more than the President requested, to continue the campaign to cut infant mortality rates in half and to give low birth weight babies a better chance at survival.

WOMEN'S HEALTH

The committee continues to place a very high priority on women's health. The bill before the Senate contains an increase of $15 million for breast and cervical cancer screening, these increases will: expand research on the breast cancer gene, accelerate the development of new diagnostic tests, and speed research on new, more effective methods of prevention, detection, and treatment. Funding for the Office of Women's Health has also been raised to $12.5 million to continue the National Action Plan on Breast Cancer and to provide health care professionals with a broad range of women's health related information.

VIOLENCE AGAINST WOMEN

The bill contains $123 million for programs authorized under the Violent Crime Reduction Act. The bill before the Senate contains the full amount authorized for these programs, including $60 million for battered women's shelters, $35 million for rape prevention programs, $8 million for runaway youth and $12.8 million for community schools.

Domestic violence, especially violence against women, has become a problem of epidemic proportions. The Department of Justice reports that each year women are the victims of more than 4.5 million violent crimes, including an estimated 500,000 rapes or other sexual assaults.

But crime statistics do not tell the whole story.

I have visited women's shelters in Harrisburg and Pittsburgh, where I saw, first hand, the kind of physical and emotional suffering so many women are enduring.

HEAD START

Head Start receives an increase of $412 million for a total of almost $4 billion.

EDUCATION

The future promise of any nation is dependent on the capabilities of its youth and increased funding for education is an investment in the future. This bill provides an increase of $3.513 billion over fiscal year 1996 education program levels. This is the highest level of support in our Nation's history. The bill funds title I at $7.7 billion, $470 million over last year and increases by $141 million funding for the Goals 2000 Program. Education for the handicapped is increased by $791 million over last year and vocational and adult education is increased by $146 million. The maximum Pell grant is increased by $230 to $2,700 per student. The bill increases the TRIO Program by $37 million and Education, Research, Statistics and Improvement programs are increased by $248 million.

JOB TRAINING

In this Nation, Mr. President, we know all too well that high unemployment wastes valuable human talent and potential, and ultimately weakens our economy. The bill before us today provides $4.7 billion for job training programs, including a $60 million increase for Job Corps. These funds will help improve job skills and readjustment services for disadvantaged youth and adults.

SCHOOL TO WORK

The committee recommends $400 million for school to work programs within the Department of Labor and Education. These important programs will help ease the transition from school to work for those students who do not plan to attend 4-year institutions.

WORKPLACE SAFETY

The bill increases workplace safety programs by $79 million over the 1996 levels. While progress has been made in this area, there is still far too many

work-related injuries and illnesses. The funds provided will continue the programs that inspect business and industry, weed out occupational hazards and protect workers pensions.

NUTRITION PROGRAMS FOR THE ELDERLY

For the congregate and home delivered meals program, the bill provides $469 million, or nearly $19 million above the request. In some areas of the country, there are long waiting lists for home-delivered meals. The resources provided by this bill will go a long way to ensure that the most vulnerable segment of the elderly population receive proper nutrition.

LIHEAP

The bill provides $1 billion for Low Income Heating Assistance for this winter and $1 billion in advance for next winter. This is a key program for low income families in Pennsylvania and other cold weather States in the Northwest. Funding supports grants to States to deliver critical assistance to low income households to help meet higher energy costs.

CLOSING

There are many other notable accomplishments, but for the sake of time, I mentioned just some of the highlights, so that the Nation may grasp the scope and importance of this bill.

I have voted against the omnibus appropriations bill as a protest to the procedures which I discussed at some length in floor statements today and last Saturday, September 28, 1996.

In closing, Mr. President, I again want to thank Senator HARKIN and his staff and the other Senators on the subcommittee for their cooperation in a very tough budget year.

FUNDING FOR THE INSTITUTE FOR INTERNATIONAL SPORT

Mr. SPECTER. Mr. President, as we approve the omnibus spending bill which includes appropriations for the Department of Education, it is important to mention that the Appropriations Subcommittee for the Departments of Labor, Health and Human Services, and Education intends $800,000 from the fund for the improvement of education intends $800,000 from the fund for the improvement of education to be used for scholar athlete games. The committee report to accompany the appropriations bill says "Within the funds provided, the committee has included $800,000 to award grants to nonprofit organizations for the cost of conducting scholar-athlete games." This small sum is to support the scholar-athlete games held by such groups as the Institute for International Sport at the University of Rhode Island.

Mr. PELL. That is correct. In 1994, Senator CHAFEE and I were able to include a similarly modest sum in the fund for the improvement of education for the Rhode Island Scholar Athlete Games. These games—which brought together young people in our State of varied backgrounds to participate in educational and cultural competitions and demonstrations, as well as in athletic competitions—were an enormous success. This year, the funds will be used for the second World-Scholar Athlete Games which will bring together young people from around the world.

Mr. CHAFEE. I would just like to emphasize that this is the second World Scholar Athlete Games that have been held by the Institute of International Sport at URI. The first games were held in 1993, the Institute for International Sport at the University of Rhode Island conducted the World Scholar Athlete Games with 1,600 students from 108 countries and all 50 States participating. Through these games friendships were formed and understanding was developed between boys and girls who would otherwise never have crossed paths. I believe, and I am certain that Senator PELL agrees, that through this form of interaction bridges between diverse populations are built.

Mr. PELL. I would say to my colleague, yes, that is exactly correct. This sort of enterprise, which has been developed by Dan Doyle at URI, is a way to build bridges between nations, just as the Rhode Island Games were meant to build bridges between neighborhoods and towns.

Mr. CHAFEE. The second World Scholar Athlete Games will be held during the summer of 1997. Through a partnership between the "Sister Cities International" and the Institute for International Sport along with others, 2,200 students from 125 countries are expected to participate.

PARENTS AS TEACHERS PROGRAM

Mr. BOND. Mr. President, I would like to take this opportunity to thank Chairman SPECTER for increasing funds for the Parents as Teachers [PAT] Program in the Labor, Health and Human Services, and Education, and related agencies appropriations bill. The key to success for our children's education is to begin early in life through well-rounded early childhood education programs that benefit not only the child, but the parent as well. I firmly believe that we must give parents the tools they need to fulfill their responsibility to develop their children's character, personality and ability to learn as well as to provide for their material needs if we are ever to see our social ills diminish.

Title IV of the Goals 2000: Educate America Act requires at least 50 percent of funds awarded to each grantee to be used to establish, expand, or operate Parents as Teachers Program or Home Instruction Programs for Preschool Youngsters [HIPPY]. This will enhance three of the four purposes of the legislation as stated in section 401(a):

The purpose of this title is—

First, to increase parents' knowledge of and confidence in child-rearing activities, such as teaching and nurturing their young children;

Second, to strengthen partnerships between parents and professionals in meeting the educational needs of children aged birth through five and the working relationship between home and school;

Third, to enhance the developmental progress of children assisted under this title; and

Fourth, to fund at least one parental information and resource center in each State before September 30, 1998.

The purposes clearly focus on parents of young children, and this appropriation will carry these purposes forward by awarding funds to States who commit to spend at least half of their grant on Parents as Teachers or HIPPY, early childhood parent education programs which have been proven effective.

Mr. SPECTER. Mr. President, I thank the Senator from Missouri for raising the importance of the Parents as Teachers Program. The purpose of the Parents as Teachers Program is to improve parenting skills and strengthen the partnership between parents and professionals in meeting the education needs of their school-age children, including those aged birth through five. It is my understanding that Federal education funds are authorized for grantees who make a commitment to spend at least 50 percent of their funds on implementing the Parents as Teachers Program or Home Instruction Programs for Preschool Youngsters. These are effective parent education programs that promote learning and child development.

Mr. BOND. I thank my colleague from Pennsylvania and appreciate all of his good work on this bill. As members of the Senate Labor, Health and Human Services, and Education, and Related Agencies Appropriations Subcommittee, we want to ensure, from the start, that children are ready to learn, physically and emotionally. Parents as Teachers has a proven track record of increasing a child's intellectual and social skills that are essential when a child enters school, and involving parents in creating a healthy and safe environment for their children. This program strengthens the foundation for children's educational success and healthy development, and I urge my colleagues to continue to support the Parents as Teachers Program.

EFFORTS TO COMBAT HEMOCHROMATOSIS

Mr. HOLLINGS. Mr. President, I wish to engage the chairman of the Appropriations Subcommittee on Labor, Health, and Human Services, Senator SPECTER, in a colloquy regarding hemochromatosis.

Hemochromatosis, or Iron Overload Disease, is an illness in which too much iron is stored in the blood. It

leads to massive organ failure if it is not caught early, but this tragic outcome may be averted by regularly giving blood. Already, the Centers for Disease Control has been working to establish guidelines for physicians on diagnosing this disease and on its simple treatment, but the effort has just begun. In light of the seriousness of the disease and the promise of advancements in its treatment, I hope the Centers for Disease Control will use some of the increased funds in this bill to expand its clinical screening effort and to provide physician education.

Mr. SPECTER. I appreciate the efforts of the Senator from South Carolina to spread the word on this serious matter. We have been careful to provide an appropriate increase for the Center for Chronic and Environmental Disease Prevention, and this is an appropriate use of these funds.

Mr. HOLLINGS. I thank the Senator from Pennsylvania.

SECTION 2601 WITHIN TITLE III, THE ECONOMIC GROWTH AND REGULATORY PAPERWORK REDUCTION ACT

Mr. MACK. Because my good friend from Utah is our resident expert on stored value products, and in fact is responsible for the much needed study on these products, as well as a 9 month delay in Federal Reserve Board rulemaking on these products in this bill, I wanted to ask him a question about his intent with respect to these two provisions. Was it ever your intent to interfere with the Federal Reserve Board's proposed revisions to Regulation E with respect to electronic communication of Regulation E required disclosures, and the Fed's revised rules regarding error resolution for new accounts?

Mr. BENNETT. I thank my friend from Florida for the useful question. The electric stored value products study should in no way delay or otherwise affect the Federal Reserve Board's further consideration of these other proposed Regulation E revision, or any other revisions to Regulation E not involving electronic stored value products.

Mr. THOMPSON. May I engage the chairman in a colloquy regarding the committee's funding of the Juvenile Justice and Delinquency Prevention Act? As the chairman knows, the authorization for that status expires September 30, 1996. And the current statutory language has been the subject of considerable criticism.

Mr. GREGG. I am aware of these difficulties.

Mr. THOMPSON. Senator BIDEN and I introduced S. 1952 in this Congress, a bipartisan bill to reauthorize JJDPA. This bill would make the most sweeping changes in the JJDPA since its original enactment in 1974. The Judiciary Committee reported the bill favorably to the full Senate in August, but the full Senate was not able to take up the bill before adjournment. What is the chairman's view of this legislation?

Mr. GREGG . I commend the Senator fROM Tennessee and the Senator from Delaware for introducing thoughtful legislation to update Federal Government's law regarding juvenile crime. Much of the current statute funds programs that may or may not be effective. And it imposes severe burdens on States and localities, especially under the regulations that have been promulgated.

Mr. THOMPSON. I thank the chairman. I would also point out that the nature of juvenile crime has changed so much since the original enactment of JJDPA in 1974.

Mr. BIDEN. The legislation that Senator THOMPSON and I introduced and passed through the Judiciary Committee includes some important reforms which have bipartisan support. We have worked together on the Judiciary Committee's Subcommittee on Youth Violence to update the statute. I am disappointed that we were not able to pass reauthorization legislation this year. I look forward to trying again next year. I would ask the chairman of the Commerce, Justice, State Appropriations Subcommittee if he is concerned that if reauthorization legislation is not passed next year, whether that will make it more difficult for the subcommittee to fund the Office of Juvenile Justice and Delinquency Prevention?

Mr. GREGG. I would say to the Senator that the committee will obviously make appropriations in a way that reflects any changes in the authorizing legislation. But given the bipartisan view that the JJDPA must be extensively changed, and the likelihood that the Congress will change the authorizing language next year, it is unlikely that the program will be funded in its current form for fiscal year 1998.

Mr. BIDEN. I thank the chairman.

Mr. THOMPSON. I thank the chairman.

SECTON 115 OF THE INTERIOR APPROPRIAITONS

Mrs. MURRAY. Mr. President, would the senior Senator from Washington yield for a question on the bill language amending the Elwha Act included in the Interior section of the omnibus appropriations bill.

Mr. GORTON. I would be happy to yield.

Mrs. MURRAY. Is it a correct interpretation of the language in section 114, that none of the requirements of the Elwha Act are changed if the State of Washington elects not to purchase the projects?

Mr. GORTON. The Senator is correct.

RECREATION USER FEES

Mr. ABRAHAM. Mr. President, I rise to express a concern about the recreation fee demonstration program for America's national parks and wilderness areas. These fees were authorized in last year's continuing resolution, and I see that there are additional provisions included in the 1997 Senate Interior appropriations bill. Do I understand correctly that the subcommittee chairman supports expanding this program to more of this Nation's parks and refuges?

Mr. GORTON. Mr. President, the Senator from Michigan is correct.

Mr. ABRAHAM. Mr. President, I wish to assure the chairman that I am not opposed to the concept of user fees for national parks and wilderness areas. In this period of increased fiscal awareness, such an approach may help the Forest Service and Park Service maintain these important national treasures. I think it is important, however, that we clarify who will have to pay these recreation fees.

As a case in point, the Sylvania Wilderness in Michigan's Upper Peninsula has been chosen as one of the recreation fee demonstration sites, and the Forest Service is presently taking comments on this proposed action. Located on the edge of the Sylvania Wilderness is a beautiful body of water known as Crooked Lake.

When you look at a map of the area, you will note that approximately three-fourths of Crooked Lake's shoreline is within the Sylvania Wilderness. The remaining one-fourth, however, is privately held by about a dozen riparian owners, some of whom have lived on the lake for over 50 years. These owners have been good stewards of the land. As it stands now, if the Sylvania does institute a recreation fee, there is no guarantee that these people will be exempted from having to pay for their day-to-day activities.

It seems to me that, if these owners and their day-use guests wish to use the lake for recreational activities such as swimming or fishing or boating, they should be exempted from paying the user fee. After all, these people lived on the lake and did all these things before the Sylvania was even designated a wilderness area. How can we justify suddenly imposing a tax on their use of the lake? If one of these families hosts a family reunion, for example, should they have to pay a recreation fee for each of the children who might wish to swim or wade or boat in the lake? And how can a small, family owned resort that has operated on this lake for decades justify having to charge each of its customers and additional $5 or $10 per person per visit? We need to assure these residents, their guests and day-use guests that they will not have to purchase a permit to continue their way of life.

Mr. GORTON. Mr. President, will the Senator from Michigan yield for a question?

Mr. ABRAHAM. Mr. President, I would be happy to yield to the distinguished Senator from Washington.

Mr. GORTON. Mr. President, does the Senator from Michigan believe these

resident should pay a user fee when participating in other activities within the Sylvania Wilderness such as hiking and camping?

Mr. ABRAHAM. Mr. President, I would inform the subcommittee chairman that, if the residents wish to use the Sylvania for activities such as camping, hiking, or picnicking, paying the same fee as all other visitors sounds reasonable. That is clearly a different circumstance, and it seems logical that visiting other areas of the Sylvania would require purchasing the same permit as all other visitors.

Now in fairness Mr. President, I do not know if the Forest Service had any intention of charging the Crooked Lake residents if the recreation fee were instituted. In fact, in conversations about this matter, Sylvania's Forest Service personnel indicated to me that exempting riparian owners, guests, and day-use guests from fees for using the lake seemed sensible and fair. I believe that there must be a commitment from the Forest Service and National Park Service to work to accommodate the distinctive interests of people living in and around this Nation's parks and refuge areas. I would ask the distinguished subcommittee chairman and ranking member if they believe that cases such as Crooked Lake's riparian owners merit such consideration.

Mr. GORTON. Mr. President, the Senator from Michigan raises a good point. There may be unique circumstances that should be taken into consideration as these recreation fee demonstration projects are proposed and established. It is my expectation that, in instances such as this, the administrative agency work with the congressional delegation to resolve disputes to the benefit and understanding of all parties.

Mr. BYRD. Mr. President, I would agree with the distinguished chairman.

Mr. ABRAHAM. Mr. President, I wish to thank the distinguished subcommittee chairman and the ranking member for their consideration and all their hard work in support of this Nation's parks, national forests, and wildlife refugees. Mr. President, I yield the floor.

MAINE ACADIAN CULTURE PRESERVATION COMMISSION

Ms. SNOWE. Mr. President, I would like to engage the chairman of the Interior Appropriations Subcommittee, Senator GORTON, in a colloquy.

Mr. GORTON. I would be pleased to join the Senator from Maine in a colloquy.

Ms. SNOWE. Mr. President, during the 101st Congress, the Congress and the President enacted Public Law 101–543, the Maine Acadian Culture Preservation Act. The purposes of the act were to recognize the important contributions made to American history and culture by the Acadians in Maine, to assist State and local governments, as well as private and public entities, in the identification, preservation, and interpretation of Acadian culture and history, and to assist in the identification and preservation of sites and objects associated with Acadian culture.

Although the Acadians in Maine represent one of America's oldest and most interesting cultural groups, the mission of the act has still not been fulfilled, and more work has to be done. I understand that, in the current fiscal year, the National Park Service has provided $72,000 from the Operation of the National Park System account to fund activities related to the act, including technical assistance to the Maine Acadian Culture Preservation Commission created by the act. I further understand that the administration's budget request $72,000 for activities related to Maine Acadian cultural preservation in fiscal year 1997. Is it the chairman's understanding that the National Park Service intends to use funds from the Operation of the National Park System account in this bill for these purposes in the next fiscal year?

Mr. GORTON. Yes, the National Park Service's budget does request funding in fiscal year 1997, under the Operation of the National Park System account, to preserve and interpret Maine Acadian culture, consistent with the authority provided by Congress in the Maine Acadian Culture Preservation Act. The omnibus appropriations bill includes $66.8 million above the fiscal year 1996 appropriations level for the operation of the National Park System account.

Ms. SNOWE. I thank the chairman for that clarification.

U.S. GEOLOGICAL SURVEY

Mr. BENNETT. I would like to raise an issue with the chairman of significance to taxpayers in Utah and across the Nation: the extent to which the Federal Government is performing functions that, in a free-market economy such as ours, are better left to the private sector. Specifically, it has been brought to my attention that the U.S. Geological Survey [USGS] is competing with private sector companies when it offers water resources-related engineering, scientific and technical services—services that are readily available in the private sector—to non-Federal entities at far below market rates. Not surprisingly, the non-Federal entities involved often agree to contract with the USGS, to the great detriment of private sector firms in this field. This practice, some have termed it "predatory competition," also appears to involve the USGS in activities far beyond its stated mission.

Mr. President, according to its informative home page on the World Wide Web, the mission of the USGS is "to provide geologic, topographic and hydrologic information that contributes to the wise management of the Nation's natural resources and promotes the health, safety, and well-being of the people."

May I ask the chairman if he would agree to investigate this issue in the hearing process next year to determine if this is a problem that should be addressed?

Mr. GORTON. The Senator from Utah raises a valid point. Our efforts in this area to downsize the Federal Government, including the USGS, are intended to reduce the burden on taxpayers by retaining only essential research capabilities that for sound policy reasons should not, or cannot, be performed by the private sector.

I would be happy to explore this issue further as we undertake budget hearings in the next fiscal year.

Mr. BENNETT. I thank the chairman for his views and look forward to working with him in this important matter.

Mr. STEVENS. Mr. President, may I engage the distinguished chairman of the Interior Appropriations Subcommittee in a colloquy? A few years ago, I sponsored an amendment to the Interior appropriations bill regarding the eligibility for Alaska Native villages for the BIA road funding program. This amendment was necessitated by an internal ruling eliminating Alaska Native villages which populations had fallen below 50 percent Alaska Native.

The Alaska Native villages are unique in the country because of the special nature of the land settlement under the Alaska Native Claims Settlement Act. Unlike lower 48 Indian reservations, these villages received title to their land in fee simple; the Federal Government does not own the land in trust as with reservations in all other States. However, since the land is privately owned, Congress protected it from taxation and levy by Federal, State and local government while it is undeveloped. This has protected this land from being involuntarily conveyed out of Alaska Native corporation ownership because of inability to pay taxes, but it has also dramatically reduced the tax base in villages which also have municipal governments providing municipal services.

Because of this situation, normal property tax and other municipal levies on land in the villages are not permitted unless the land is specifically developed. The vast majority of this land is not developed and is protected from municipal taxation. That is why I sponsored an amendment to change the BIA road funding rule in Alaska requiring 50 percent Alaska Native population for village eligibility. This amendment was passed twice in the subcommittee, and once by the Senate. Ultimately, an agreement was worked out with BIA to change this qualification standard administratively.

Mr. President, I am relating this history because I have been recently contacted by the same village municipality which brought the BIA funding issue to my attention. This time a similar rule has been adopted and is being enforced for village sanitation, water, sewer, wastewater, and solid waste grants by the Indian Health Service. This is the same issue again.

The exact same arguments and fact patterns apply. The IHS is the principal grant agency for village water, sewer, wastewater and solid waste for Alaska Native villages. Now it is either changing the rule or beginning to enforce a rule which until now has not been enforced. Either way, this is unfair for Craig, which is completely surrounded by Native village corporation land from two villages, Shaan Seet Corp. and Haida Corp. In many ways, Craig is more heavily impacted than most municipalities because these two villages are so close together that their land selections are adjacent to each other.

What I ask here, Mr. President, is that the same policy adopted by the Interior Appropriations Subcommittee for BIA roads apply for IHS village sanitation funding. The issues are the same; the result should be the same. Can I get the assurance of the chairman of the subcommittee that he agrees with this position? It is a direct match up with the BIA issue with which this subcommittee has already dealt.

Mr. GORTON. I agree that there are certain circumstances in which it is appropriate for the Indian Health Service to provide sanitation facilities funding for Indian homes in non-Indian communities and for Alaska Native villages. I understand that the Indian Health Service will soon issue an internal guidance document that addresses this issue, and this policy will be consistent with the terms of the conference report on the fiscal year 1995 Interior and Related Agencies Appropriations Act. (House Report 103–740). I strongly urge the IHS to issue this guidance document, and to be sensitive to the unique needs of Alaska Native villages, which differ from lower 48 non-Indian communities because of the land settlement under ANCSA.

Mr. STEVENS. I thank the distinguished chairman of the subcommittee for his support.

LAME DEER HEALTH FACILITY

Mr. BURNS. I would like to commend the committee for funding the replacement facility at Lame Deer, MT. The Lame Deer health care facility was totally destroyed by fire last May. In these times of fiscal constraint, we were fortunate to be able to fund this much needed replacement facility.

Mr. President, I would like to clarify how the $13,500,000 cost was calculated. In order to hold down costs, the Indian Health Service was able to use an existing design that can be used as the basis for construction of the replacement facility. Without this design and without the IHS undertaking the construction of this project, more than $2 million in additional funds would have been required.

Mr. GORTON. The Senator is correct. The cost for the replacement was based upon the IHS using the existing design and doing the construction themselves. Because of the urgent nature of this request and because the tribe has no other health care resources within close proximity, the committee responded to the dire need for a health facility at Lame Deer. We expect the IHS to move as expeditiously as possible to complete this much needed health facility. I strongly urge the tribe and the IHS to work within the funding limitations for this project.

Mr. BURNS. Will the chairman of the Interior and Related Agencies Appropriations Subcommittee yield for question?

Mr. GORTON. I will be delighted to yield to the Senator from Montana, Senator BURNS.

Mr. BURNS. As the Chairman knows, I have been pursuing for a number of years funding for the Indians Into Psychology program. This program helps train Native Americans in the field of clinical psychology and has a service requirement that those who receive this training must work on the reservations. As the chairman knows, mental illness problems among native Americans are pervasive and devastating, and there is great need for native Americans trained in the field of psychology to work on the reservations.

The chairman included $500,000 for this program, or a $300,000 increase over last year's levels in the Senate bill as reported by the committee. This is a modest increase for a very important program and would permit a second program site to be established. I understand that the full $300,000 increase has been eliminated by the conference action. Is that correct?

Mr. GORTON. Yes, the Senator is correct. We were forced to eliminate this funding without prejudice because of a very constrained spending ceiling for the subcommittee.

Mr. BURNS. I understand that the chairman concurs with me that this is an important program. Would the chairman join me and urge the Department and the Indian Health Service in identifying a reprogramming of funds to provide some level of increase for this program in order to permit the initiation of a second program site to be awarded competitively?

Mr. GORTON. The Senator is correct. It is my hope that the Department and the Indian Health Service will identify a source of funds to provide an increase for this program early in the new fiscal year, fiscal year 1997 so that a second program site can be awarded competitively.

ENERGY SAVING PERFORMANCE CONTRACTING IN FEDERAL AGENCIES

Mr. BINGAMAN. Mr. President, I would like to engage the Senator from Alabama, the distinguished chairman of the Treasury, Postal Service, and General Government Subcommittee in a colloquy relating to saving energy in Federal facilities.

In light of falling appropriations for undertaking energy efficiency projects at Federal facilities, is it the opinion of the committee that Federal agencies should be utilizing private sector financing mechanisms such as energy saving performance contracting [ESPC] utility sponsored energy conservation measures [ECM] to achieve their legislatively mandated targets for energy reduction?

Mr. SHELBY. Yes, the committee supports the increased use of ESPC and ECM to reduce energy use by Federal agencies to save taxpayer dollars and reduce environmental pollution.

Mr. BINGAMAN. It has been nearly 4 years since Federal agencies were authorized to undertake ESPC and ECM at Federal facilities. In the meantime, very few of these agreements have come to pass. I believe that this is due to both institutional resistance and inertia. Mr. Chairman, I have worked very hard during this year and last to provide some legislatively directed incentive for agencies to more aggressively undertake these energy-saving methods, and have met with significant resistance.

Mr. President, I believe it's time we stop looking on idly, hoping that one day agencies will rise to this challenge. I would like to ask that the six agencies which use the most energy enter into a specific number of ESPC or ECM contracts during fiscal year 1997. The numbers themselves represent a reasonable expectation for response, but ones which will result in a significant step forward for the use of ESPC and ECM inside the Federal Government. They are: Department of Defense, 10 contracts; General Services Administration, U.S. Postal Service, and Department of Energy, 8 contracts each; Department of Transportation and the Veterans Administration, 5 contracts each.

If we are to move this forward we should also ask that the agencies issue a short report to us within 90 days of enactment, as well as quarterly through the year to detail their progress in meeting these targets.

Mr. SHELBY. The committee shares your sentiment that Federal agencies should get moving toward greater use of ESPC and ECM. And they will now be on notice that this is a desire of the committee and that we will be monitoring their progress.

Mr. BINGAMAN. I thank the chairman. By taking these short steps, we will gain some success in demonstrating the effectiveness of these outside

financing mechanisms, while identifying legitimate institutional barriers with the intention of addressing those in the future and expanding use of ESPC and ECM to other Federal agencies.

EMERGENCY REHABILITATION OF THE BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

Mr. DOMENICI. I would like to engage the distinguished chairman of the Interior Appropriations Subcommittee in a brief discussion of the use of the emergency firefighting funding that is being provided to the Department of the Interior agencies.

Mr. GORTON. I would be happy to discuss this emergency funding with the senior Senator from New Mexico.

Mr. DOMENICI. Mr. President, the administration has submitted a proposal to the Congress for additional funding of $50 million for the Bureau of Land Management within the Department of the Interior to respond to the severe fire season we've had this year. Subsequent to that request, the administration identified an additional $26.7 million in damages incurred by several Department of the Interior agencies, including the Fish and Wildlife Service. This request includes $600,000 for the Bosque del Apache National Wildlife Refuge in New Mexico.

This past June, a wildfire consumed 4,100 acres of the Bosque del Apache National Wildlife Refuge in New Mexico. It was the worst fire in the 57-year history of the refuge.

The upland desert habitat in the burned area will recover naturally, but 2,176 acres of native cottonwood/willow riparian forest habitat along the Rio Grande River will not recover without management action. The Fish and Wildlife Service needs the requested $600,000 in fiscal year 1997 to make significant progress on these rehabilitation needs. These funds are to be used for cottonwood forest rehabilitation.

This is a critical time because this riparian area harbors the highest density and diversity of wildlife in the refuge. Without immediate action, this area will revert to exotic salt cedar vegetation, which thrives in disturbed habitats and is fire tolerant. Since 1987, refuge personnel have been actively engaged in riparian restoration efforts, successfully controlling over 1,000 acres of exotic salt cedar vegetation and reestablishing over 650 acres of native cottonwood and willow habitat.

I would ask the distinguished chairman of the subcommittee if the $600,000 requested for cottonwood forest rehabilitation at the Bosque del Apache National Wildlife Refuge is included in the final omnibus bill?

Mr. GORTON. Yes, the omnibus bill includes the $600,000 requested for the cottonwood forest rehabilitation work at the Bosque del Apache National Wildlife Refuge.

Mr. DOMENICI. I thank the distinguished chairman for his assistance in this matter. I will urge the Department to carry through with this initiative which is so critical to saving the native habitat at the Bosque del Apache National Wildlife Refuge in New Mexico.

MONTEZUMA CREEK HEALTH CLINIC

Mr. BENNETT. I wish to bring to the attention of the Senate a matter that, while it may appear small, is of great importance to the Utah Navajo population of San Juan County in the southeastern part of Utah. The matter involves the Montezuma Creek Health Clinic in Montezuma Creek, UT.

Over the past several years, my colleague Senator HATCH and I have worked with the Indian Health Service [IHS], the State of Utah, the local Utah Chapter of the Navajo Nation, the county of San Juan, and the Navajo Nation in an effort to improve the delivery of health care services in San Juan County.

In this region, which includes the Navajo Reservation in northern Arizona and New Mexico, there are six IHS hospitals and 18 outpatient facilities. Unfortunately, none of these facilities are located in Utah. In fact, the only IHS facility in the entire State of Utah is an outpatient facility located at Fort Duchesne nearly 350 miles from Montezuma Creek.

The need for the Montezuma Creek Clinic is clearly justifiable. It is the population center for the eastern portion of the Utah Navajos. Approximately 6,000 Navajos live in this area; and, unfortunately, their health care needs are greatly underserved.

Although the building housing the Montezuma Creek Clinic is currently functional, it is, nevertheless, in poor condition. The facility has undergone repairs and currently is in the process of having its roof replaced. Within the near future, the facility will eventually have to be replaced in order to continue to provide care to an average of 65 patients per day.

The patchwork of repairs will no longer be a viable option.

Accordingly, it is our desire that, at the very least, $35,000 be provided for a preliminary land study, and engineering and architectural design for a new facility to replace the existing old structure.

Mr. HATCH. If the Senator would yield, I want to thank my colleague from Utah, Senator BENNETT, for his remarks.

The clinic at Montezuma Creek, UT is absolutely essential in overall context of health care in this remote part of Utah and in this region of the country.

In fact, with the recent closing last month of Monument Valley Hospital in San Juan County, the clinic is in even greater need by the community especially now that there are fewer health providers in this large area.

Over the past several years, I have worked with the Indian Health Service in efforts to improve health care services in this part of Utah. And, I must say that, compared to other States, the availability of IHS facilities and services for Utah Navajos in southeastern Utah is extremely deficient.

Senator BENNETT and I want to correct this disparity.

That is why we need to act now.

I recognize that the IHS budget is limited. In that regard, I want to continue to work with my colleagues on the Appropriations Committee as well as on the Indian Affairs and Finance Committees in efforts to improve the delivery of health care for Native Americans throughout the country.

One should go to some of these communities to see, first hand, the poverty and poor health conditions many native Americans tolerate. Native Americans suffer the highest rates of diabetes, tuberculosis, and fetal alcohol syndrome of any segment of the U.S. population in large part because they do not have access to adequate medical treatment.

The $35,000 we are seeking is not a large amount of money. But, this amount would be a significant commitment to the Navajo people of southern Utah and northern Arizona. It is a commitment I strongly believe we should fulfill.

Mr. GORTON. If Senator BENNETT will yield further, I am aware of Senator HATCH's and Senator BENNETT's interest and concern over the clinic at Montezuma Creek and their efforts ultimately to replace that facility. I want to assure the Senators from Utah that I will work with them to ensure that the health care needs of Utah's Navajos are met.

Should the Indian Health Service submit a request to reprogram a small amount of funds for a preliminary planning study of a satellite facility at Montezuma Creek, I would consider carefully such a request. I emphasize, however, that such a request must be consistent with the Health Care Facilities Priority System. Current funding constraints simply do not allow for activities beyond the scope of the priority list.

Mr. HATCH. I thank the Senator for his consideration. It is my hope and strong desire that we can begin a more comprehensive effort by the IHS, the Navajo Nation and the State of Utah to improve the delivery of health care in this part of Utah.

I would also like to say that I believe the IHS is making a good faith effort at improving the health care of native Americans in Utah. I appreciate the work and spirit of cooperation I have sensed over the past year from the IHS. I look forward to working with the IHS as well as with all parties at improving the health care for Utah Navajos.

Mr. BENNETT. I also want to thank the Senator from Washington for his consideration. I would urge the IHS to

work closely with the local Navajo Chapter as well as with San Juan County, the State of Utah, the Utah Navajo Trust Fund, and the Navajo Nation in this endeavor. Senator Hatch and I strongly encourage all parties to work together, and to maximize any federal dollars made available through this request with matching funds.

Again, I thank the chairman for his assistance on this matter.

DOE/FOSSIL ENERGY COOPERATIVE R&D PROGRAM

Mr. DORGAN. Mr. President, Senator CONRAD and I wish to engage the chairman and ranking member of the Interior Appropriations Subcommittee in a colloquy regarding the Cooperative Research and Development Program funded in the Department of Energy's fossil energy appropriation account.

In its action on the fiscal year 1997 Interior bill, H.R. 3662, the Senate Appropriations Committee recommended $6.2 million for the Cooperative Research and Development Program. These funds are shared by the University of North Dakota Energy and Environmental Research Center [UNDEERC] and the Western Research Institute [WRI] in Wyoming. The UNDEERC program is a leader in low-rank coal research in the United States, and has cooperated on efforts to use abundant low-rank coal through advanced clean coal technologies. As the ranking member of the subcommittee is aware, UNDEERC has worked closely with the expertise found at the Morgantown Energy Technology Center [METC].

Mr. BYRD. The Senator is correct; UNDEERC and METC have worked closely together in support of strategic fossil energy research objectives. The partnership at UNDEERC, which involves cooperators from the Federal Government, industry, and academia, serves as a model for jointly sponsored research programs. The non-Federal partners in this effort contribute significant cost-sharing to conduct the programs at UNDEERC.

Mr. CONRAD. Mr. President, let me add to what the Senator from West Virginia said. Of UNDEERC's funding for the jointly sponsored research program, 61 percent came from private sources in 1995. When individual businesses are willing to contribute real dollars to this effort, that demonstrates strong private sector support for the work of the center and its significantly enhances the Federal investment. Since UNDEERC was defederalized in 1983, the center has developed more than 400 private and public sector clients, some of whom have 20 or more individual contracts. In 1995 alone, UNDEERC developed 175 contracts with clients in 34 States and 8 foreign countries.

Mr. DORGAN. Mr. President, I would like to inquire of the chairman and ranking member of the subcommittee about the funding level for this program as recommended in the omnibus continuing resolution.

Mr. GORTON. I would respond to the Senator from North Dakota that the recommendations for the fossil energy appropriation account contained in this legislation assume a funding level of $5.1 million for the Cooperative Research and Development Program. While this is a decrease of $1.1 million from the funding level recommended in the Senate version of the fiscal year 1997 Interior bill, it is an increase of $1.1 million above the amount recommended for this program in the House-passed fiscal year 1997 Interior bill. While the Senate sought to protect the full amount recommended by the Appropriations Committee for this program, it was not possible to retain the total increase included in the Senate bill because of the change in the subcommittee's allocation for purposes of reaching closure on the fiscal year 1997 Interior bill.

Mr. BYRD. Mr. President, the chairman is absolutely correct. The net result of the Interior bill portion included in this continuing resolution is that the subcommittee's allocation was essentially cut in half from the amount of resources available when the bill was marked up in the Senate. Thus, a number of programs which were increased in the Senate bill were not able to sustain the full amount of the proposed increase in the final resolution. The chairman sought to protect as many of these increases as possible.

Mr. DORGAN. Senator CONRAD and I would ask of the chairman and ranking member if it would be possible to consider a reprogramming or supplemental request from the Department of Energy that would restore the final recommendation for the Cooperative Research and Development Program to the fiscal year 1996 level, which is the same amount as was included in the Senate bill?

Mr. GORTON. Mr. President, if the Department of Energy were to submit a reprogramming or supplemental request, the committee would give it every consideration as expeditiously as possible. Under the committee's reprogramming guidelines, the Department has the flexibility to move up to $500,000, or 10 percent, without prior approval of the Committee.

Mr. BYRD. I say to my good friends, the senators from North Dakota, that I will do everything I can to ensure that any effort to increase the funding for the fossil energy cooperative research and development program is considered promptly by the subcommittee. The chairman and I have an excellent relationship in reviewing matters under the jurisdiction of the subcommittee, and I am sure that he would seek to be helpful if at all possible. I would inquire of the chairman if he would agree that the Department of Energy should, at a minimum, review its unobligated balances now that fiscal year 1996 has drawn to a close, and see if there are any funds that could possibly be considered for a reprogramming without affecting adversely the conduct of other ongoing activities in the fossil energy appropriation account.

Mr. GORTON. Mr. President, the Senator from West Virginia makes an excellent suggestion. While I appreciate the desire of the Senators from North Dakota to see additional funding provided for this program, I am also sensitive to the many other competing demands within the Fossil Energy Program. Overall, this appropriations account is funded $52.3 million below last year's level, and some programs are being terminated or slowed down to comply with the subcommittee's constrained allocation.

Mr. DORGAN. Mr. President, I thank the chairman and ranking member. I look forward to working with them to see what actions might be possible to keep this exceptional Cooperative Research and Development Program at UNDEERC functioning without major disruptions.

Mr. CONRAD. I would also like to express my appreciation to the chairman and ranking member for working with us to see what can be done to secure full funding for this outstanding cooperative research program.

FLOWERING TREE

Mr. PRESSLER. Mr. President, as the Senate prepares to debate fiscal year 1997 funding levels for the Department of Health and Human Services [HHS], I would like to take a moment to discuss my concerns regarding a pending decision of the Department of Health and Human Services that would affect an important program in South Dakota. This decision deserves the Senate's attention.

The program affected is called Flowering Tree. It is a nationally recognized alcoholism treatment program that has been operating on the Pine Ridge Indian Reservation in my home State of South Dakota. This alcohol treatment program was backed by a 5-year Federal grant. It is only one of four substance abuse treatment programs nationally that allows Native American women to continue caring for their children while they receive treatment. The Flowering Tree program at Pine Ridge serves the second largest Indian reservation in the United States. On a reservation with 87 percent unemployment, widespread poverty and substance abuse, Flowering Tree has been a vital component of the Pine Ridge community.

In spite of Flowering Tree's success in combating generational alcohol abuse, it was brought to my attention that HHS intends to pull Federal funding from Flowering Tree, which would force the program to close its doors. The program is funded through the

Substance Abuse and Mental Health Services Administration [SAMHSA]. The loss of Federal support for the Flowering Tree program would be very harmful to those participating in it. Flowering Tree keeps families together and helps to build a better future for both mothers and their children by treating alcohol abuse. The program is working. If Flowering Tree is forced to close, many of the children assisted by the facility could lose their families and be referred for adoption, foster care or group homes. To say this would be unfortunate is a gross understatement. The breakup of families, combined with the loss of a program that offers a real way out of substance addiction, would be a devastating double-punch for the mothers currently participating or waiting to participate in the program.

I am troubled by the Department of Health and Human Services plan to terminate assistance to Flowering Tree. The pending decision apparently is based on anticipated fiscal year 1997 funding levels. The Senate soon will consider a bill that would significantly increase funding for substance abuse treatment programs. Flowering Tree's funding request for fiscal year 1997 is only $688,913. I have written a letter to the Secretary of Health and Human Services, Donna Shalala, urging her to reverse the Department's decision. Last week, I received an initial response from David Mactas, Director of the Center for Substance Abuse Treatment. Mr. Mactas explained the rationale for the Department's decision to terminate funding for Flowering Tree. However, this week, my staff learned from staff at HHS that the decision to terminate funding was put on hold, pending the outcome of the bill that could fund this program.

Mr. President, I see on the floor my colleague from Pennsylvania, the distinguished Chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, Senator SPECTER. I know my friend is working hard on the fiscal year 1997 spending bill that funds substance abuse programs. I hope my colleague had the opportunity to hear my earlier comments and I would yield to him for any comments he may wish to make.

Mr. SPECTER. I thank my friend, the Senator from South Dakota, for yielding. The Senator raises some understandable concerns regarding the future of the Flowering Tree Program on the Pine Ridge Indian Reservation. I agree with the statement of my colleague from South Dakota that the bill would provide sufficient funds for the Substance Abuse and Mental Health Services Administration's budget.

Mr. PRESSLER. Would the Senator from Pennsylvania agree the Appropriations Committee's proposed funding level should provide HHS with the funding necessary to continue supporting Flowering Tree?

Mr. SPECTER. Yes. I believe this funding level should be adequate to provide support for Flowering Tree's request for FY 1997. In fact, the Appropriations Committee has provided sufficient funds to continue all 13 residential women and children grants that were proposed to be discontinued by HHS at the end of the current fiscal year. The committee expects these projects to be fully funded in FY 1997. The Senator from South Dakota has made a very compelling case for Flowering Tree and I hope this information is helpful to my friend and colleague.

Mr. PRESSLER. I want to thank my dear friend and colleague from Pennsylvania for all his hard work and dedication on the Appropriations Committee. I appreciate very much the information he has provided. I also commend the Senator for his work to ensure adequate funding levels for substance abuse programs. I am pleased Congress intends to provide the funding necessary for Flowering Tree to continue fighting alcoholism and securing a brighter future for mothers and their children. Given this information, I hope Secretary Shalala and her department will do the right thing and continue to support the Flowering Tree program in Pine Ridge, SD.

JOBLINKS

Mr. DASCHLE. Mr. President, I understand that the omnibus appropriations bill includes report language instructing the Labor Department to follow the recommendations for demonstration projects contained in Senate Report No. 104–368. The Senate report instructs the Department of Labor to give full and fair consideration to the Joblinks Employment Transportation Center.

This Joblinks Center is an important initiative because it will help States to meet the work requirements of welfare reform by coordinating job referral and creation activities with available transportation resources. This will include development of a data base and technical materials, and onsite technical assistance. Second, the center will conduct demonstrations in 10 States—of which at least 4 are predominately rural—on coordination of transportation and job referral and creation programs. Third, to take advantage of the employment opportunities available in transportation, the Joblinks Center will create a training institute to train and certify skills in driving, dispatching, and operating transit systems. This make it possible for individuals to leave welfare and become employees in the Nation's transit industry or in a related field.

My colleague, Senator HARKIN, and I developed this initiative because, in many rural areas like in South Dakota and Iowa as well as in inner-city neighborhoods, unemployed and low-income people are stranded. Transportation is the vital link that connects people to jobs and can help them gain independence. Yet, in many communities, transportation assistance has not kept pace with shifting population patterns, changing communities and employment opportunities. In many instances, people simply cannot get to jobs.

Mr. HARKIN. Mr. President, the tough work requirements of the Personal Responsibility and Work Opportunity Reconciliation Act make it imperative that economically disadvantaged people have better access to employment opportunities. Among the improvements that must be made in easing the transition from welfare to work is in transportation. We must find ways to better coordinate our transportation systems with our efforts to train and employ individuals on public assistance.

As I travel around my State, the two largest barriers to work that I repeatedly hear about are child care and transportation. The Joblinks Center will help States and localities improve transportation systems for people who want to become and remain self-sufficient.

This is a very important initiative. We hope that the Labor Department will promptly get to work on funding this important activity. If people cannot get to jobs, they cannot work.

Mr. SPECTER. Mr. President, I thank the distinguished Democratic leader and my colleague, the ranking member of the Labor, HHS, and Education Appropriations Subcommittee, for bringing this initiative to the Appropriations Committee. I agree that we need to do more to assist low-income individuals to get to work. I think that this is an important project that may aid inner cities as well as rural areas, which are very important to me given the large number of rural areas in Pennsylvania. I agree with my colleagues that the Labor Department should give every consideration possible to this proposal.

Mr. DASCHLE. Mr. President, I thank the chairman, my colleague from Pennsylvania. I appreciate his efforts to work with us on this initiative. If welfare reform is truly to occur, then we need to enable more single parents to work. I know that's not easy, particularly for parents with young children. But, I believe that enhancing transportation assistance may be one key to enabling these parents to make it on their own.

CHRONIC FATIGUE AND IMMUNE DYSFUNCTION SYNDROME [CFIDS]

Mr. HARKINS. Would the distinguished senator from Pennsylvania engage in a colloquy to clarify certain congressional intent regarding chronic fatigue and immune dysfunction syndrome, also known as CFIDS?

Mr. SPECTER. Yes, I would.

Mr. HARKIN. The first matter pertains to a name change for the illness now referred to as chronic fatigue and

immune dysfunction syndrome, [CFIDS], or chronic fatigue syndrome [CFS]. There is a consensus in the CFIDS community that the name chronic fatigue and immune dysfunction syndrome does not adequately describe the complex nature of the illness. Is it the committee's intent to agree with language contained in the House Labor, HHS report to the appropriations bill calling upon the Secretary of Health and Human Service to convene a committee for the purpose of examining this issue and to report back within 6 months of this bill's enactment with recommendations for a new scientific name or eponym that more appropriately describes the illness?

Mr. SPECTER. Yes, it is the intention of the committee to concur with the House report language concerning a name change.

Mr. HARKIN. Thank you, Mr. President. The Centers for Disease Control and Prevention recently convened a panel of experts on CFIDS for the purpose of reviewing CDC's current CFIDS program and the direction for future research. The review panel, made up of experts in infectious diseases, internal medicine and epidemiology, met over the course of 2 days and issued a report containing specific recommendations to the Director of the National Center for Infectious Diseases [NCID] and other Center staff. My understanding is that those recommendations have been well received by the NCID staff. Would the committee express its support for the review panel's recommendations, which include: First, establishment of a repository for brain tissue obtained from well-characterized CFS patients—upon death—for use in etiology studies; second, proceeding with planned etiology studies utilizing cutting-edge technology, including representational difference analysis [RDA]; and third, augmenting existing staff in the Division of Viral and Rickettsial Diseases with an FTE with the demonstrated expertise in neuroendrocrinology and neuropsychology to guide case control studies of defects in the HPA axis?

Mr. SPECTER. The recent review by a panel of experts of the Centers for Disease Control's past work and future direction in CFIDS was a significant step forward in the Federal response to CFIDS. The committee applauds that initiative and urges the CDC to carry out the recommendations expeditiously.

Mr. HARKIN. Thank you, Mr. President, for your support of these important CFIDS provisions.

SECTION 2241 IN TITLE II

Mr. MACK. Mr. President, section 2241 in title II of H.R. 4278, the omnibus appropriations bill for fiscal year 1997 that is before us today, contains a technical drafting error that could have an unintended detrimental effect on foreign banks. Inadvertently, section 2241 as currently drafted may delete the Comptroller of Currency's current authority in 12 U.S.C. 72 to waive the citizenship requirements for directors of national banks if a bank is a foreign bank affiliate. Under current law that has been in effect since the International Banking Act of 1978 was enacted, the Comptroller has had the authority to waive the citizenship requirement for up to a minority of national bank directors if the bank is a subsidiary or affiliate of a foreign bank. Section 2241 could be read to inadvertently repeal that longstanding authority. Section 2241 was intended to expand the Comptroller's authority to waive requirements for national bank directors and was not intended to repeal existing authority to waive citizenship requirements. I hope legislation correcting this error will be introduced and passed in the next Congress but, in the mean time, the OCC should treat the citizenship waiver authority as continuing in effect and should not do anything that would require foreign bank subsidiaries or affiliates to restructure their boards.

Mr. D'AMATO. Mr. President, the Senator is absolutely correct. Section 2241 was not in anyway intended to repeal or change the Comptroller's existing authority to grant waivers to foreign bank affiliates under 12 U.S.C. 72. I join with my colleague in stating that it is the intent of this body that the OCC should treat any change to its current exemption authority as a drafting error and should not take any action to implement the change. I will work with my colleague in the 105th Congress to correct the drafting error made by section 2241.

Mr. GRAHAM. Mr. President, I too, would like to join with my colleagues in support of a technical amendment to section 2241 after we reconvene. I agree that any change that section 2241 would make to foreign bank operations in the United States is unintentional and is in error. I think that my colleagues are correct to instruct the OCC that this change is an error and should not be implemented.

Mr. D'AMATO. Mr. President, title II of the omnibus appropriations bill is comprised of several bills that the Senate Banking Committee considered and reported this Congress. Title II contains critical legislation to stabilize the deposit insurance funds, commonly referred to as BIF/SAIF. Title II also contains language based on our committee's lender liability, regulatory relief and fair credit reporting legislation.

Our actions today will ensure that the taxpayer will not pay one additional dollar for cleaning up the savings and loan crises. The package we are considering today represents a significant achievement. This time Congress will take the responsible action and resolve a pending problem before another S&L crisis erupts.

Mr. President, Congress needs to take action now to resolve the difficulties facing the Savings Association Insurance Fund [SAIF]. The thrift industry has recovered from the dire financial straits it faced in the late 1980's. However, the SAIF, which insures thrift deposits, is in extremely weak financial condition. Currently, the SAIF holds only half the capital it is required to hold under statute. The Bank Insurance Fund [BIF] was fully capitalized in 1995, permitting bank insurance premiums to drop to near zero. SAIF members continue to pay significantly higher rates which means that thrifts will continue to try and move deposits out of SAIF. The possible shrinkage of SAIF also raises the probability of a default on the $800 million in Financing Corporation [FICO] bond interest that thrifts now pay.

The BIF/SAIF proposal requires institutions with SAIF deposits to pay a one-time special assessment to full capitalize the SAIF. This special assessment will ensure that thrifts pay their fair share of the costs and will raise $4.1 billion in collections. Beginning January 1, 1997, all FDIC-insured institutions will pay the $800 million annual interest payments due on FICO bonds. Spreading the FICO burden will eliminate the incentive for SAIF deposits incentive to leave the fund. By removing the incentive to shift from SAIF to BIF, SAIF will be a more stable fund. Bank regulators will also have the authority to prevent SAIF deposits from being shifted in the BIF for purposes of evading SAIF assessments. However, Congress does not intend that regulators inappropriately use this authority to prevent institutions from accurately communicating with either existing or potential customers regarding the products and services offered by their institutions.

In the long term, the BIF/SAIF provisions would merge the BIF and the SAIF to protect the smaller, less diversified SAIF fund with the broader membership of the BIF. The merger will be dependent on subsequent Congressional action to address the complex issues surrounding the future of the thrift charter. I am hopeful that the next Congress will diligently work to resolve these issues.

Mr. President, by accepting these banking provisions, this Congress can also act to lower the cost of regulation to financial institutions and their consumers. The committee-reported regulatory relief provisions go a long way in relieving banks of some of the bureaucratic redtape that increases operating costs for banks and other lenders. Regulatory micromanagement is significant because higher costs for lenders drive up the price of financial products, and ultimately drive up the cost for consumers. The mountain of regulatory redtape that confronts banks is the cumulative result of years of legislation. Laws were passed to achieve

any of a number of legitimate private policy concerns. Nevertheless, many of these laws are regulatory overkill. Many of the laws that are amended or repealed by this title do not help to accomplish an intended goal. Other provisions are being amended or repealed because they impose compliance costs that outweigh the discernible benefit. As a result, banks and other financial institutions are overburdened with regulatory mandates that bear no reasonable relationship to safety and soundness, consumer protection or protection of the deposit insurance funds.

Title II eliminates many arcane regulatory burdens that just don't make sense. For example, our language eliminates branch application requirements for ATM's. These applications are time consuming for banks to prepare and for the regulators to approve. Our language also eliminates the 90 day prior-notice requirement for moving a branch within the same neighborhood. Title II also removes the 7 percent growth cap on nonbank banks. These provisions will allow banks and other lenders to operate more efficiently and cheaply. They will help to defer the costs that banks will incur as part of the BIF/SAIF package.

Title II also contains fair credit reporting reform language. These provisions will ensure that mistakes in credit reports will be corrected quickly and properly. Consumer credit reports play an essential role in the consumer finance markets. These reports allow lenders to make informed credit-granting decisions quickly and cheaply. However, if credit reports are inaccurate, both the consumer and lender lose; the consumer loses an opportunity to obtain needed financing, and the lender loses potential business. The provisions of title II will help make sure that credit reports are accurate, and that any discovered inaccuracies are corrected as soon as practicable.

The provisions of title II will also promote greater privacy for the information in credit reports by assuring that credit report information is not distributed wily-nilly, but rather, only to persons with narrowly defined legitimate purposes for using the information. This law will provide significant new privacy protections for consumers. While access to credit information is necessary for a number of legitimate business reasons, and credit reporting allows consumers to obtain prompt credit at low cost, the privacy of consumer credit information must be jealously guarded. Title II will help promote this important privacy goal.

Title II also includes the Asset Conservation, Lender Liability and Deposit Insurance Protection Act of 1996. This legislation is based on S. 394, a bill that I introduced at the beginning of this Congress. The lender liability provisions contained in title II represent the results of extensive negotiations among the administration, the lending industry and the interested committees of both Houses. These environmental liability provisions will ensure greater access to credit for small business and for environmental cleanup efforts; they will help fuel economic growth without endangering the environment. It is a clear demonstration of what can be accomplished, on a bipartisan basis, when the administration and the Congress work together to craft commonsense solutions to real problems. I would particularly like to thank Senators CHAFEE and SMITH, the chairman of the Environment Committee and its Superfund Subcommittee, respectively, for their cooperation and assistance with this legislation—they were both instrumental in resolving this major public policy issue.

The environmental title clarifies the liability of both secured parties and fiduciaries under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or Superfund. Court decisions have eviscerated the so-called secured lender exemption contained in the original Superfund law and created uncertainty as to the liability of lenders for cleanup costs. As a result, lenders have been less willing to make loans to small businesses and farms in order to avoid the risk of unlimited liability under CERCLA. Lenders do not make loans to certain types of business because they fear potential liability for environmental damage if they try to protect themselves against default through the foreclosure process. Court decisions also have raised the prospect of fiduciaries being held personally liable for environmental problems on properties held in trust, even when the fiduciary did not create, or contribute to, the problem. Title II clarifies and confirms the original secured creditor exemption. For lenders and fiduciaries, this bill does not remove liability; it simply establishes bright lines tests for liability. These tests should promote greater understanding among all lenders of the "do's and don'ts" of environmental liability. As a result of this greater understanding, lenders should become constructively involved in environmental cleanups.

This legislation provides the certainty needed by all parties—lenders, fiduciaries, guarantors, insurers, university foundations, pension administrators as well as a host of borrowers. Federal agencies such as the FDIC also stand in the position of lenders as well as receivers of property and will benefit from the certainty provided by this legislation. For the most part, this legislation codifies the terms of rules of the Environmental Protection Agency on Superfund and on the Solid Waste Disposal Act's underground storage tank provisions.

Some sections of the bill merit particular attention.

The new section 101(20)(G)(iv) defines the term "lender" by providing examples of institutions or activities that qualify an institution as a lender. This laundry list is joined together by the word and between items (VII) and (VIII). Readers of this provision should not be misled or interpret the use of and as establishing an 8-step test—a person may qualify as a lender if it meets any of the requirements provided in (G) (I) through (VII), not all of these requirements. This is just common sense; otherwise, it would be impossible for any institution to qualify as a lender. For instance, none of the Government-sponsored enterprises described in subparagraph (VI), can also qualify as an insured depository institution under subparagraph (I) or as an insured credit union under subparagraph (II)—it just is not possible under current Federal banking law. These provisions should be read as separate tests for qualifying as a lender, and this drafting error should be addressed as soon as possible.

This legislation includes a new CERCLA section 107(n)(3). This new section is intended to make clear that the standard for liability under CERCLA for fiduciaries for their negligent acts is the common-law standard for negligence when acting in a fiduciary capacity. The new section 107(n)(4) clarifies that if a fiduciary stays within the specified safe harbors, the fiduciary will not face personal liability; rather, the underlying trust or estate would be liable under the general CERCLA liability rules contained in section 107(a).

The definition of fiduciaries, in the new section 107(n)(5) which refers to indenture agreements, participations in debt securities and like activities, is intended to describe the kinds of activities contemplated by the Trust Indenture Act. Trust indentures facilitate corporate borrowings and are similar to mortgages because they provide security for repayment of investors. The trustee protects the interest of security holders who have purchased bonds issued by an obligor developing a project. As with other trustees, indentured trustees face less choice than lenders on whether or not to take possession of the property, as such duties may be required in connection with fulfilling the trustee's fiduciary obligations to the security holders. Because such trust indentures do not arise under the same common law rules as traditional trusts, the language in the new section 107(n)(5)(A)(X) of CERCLA simply assures that these trusts receive the same guidance as provided for other types of trusts.

The language in the new section 107(n)(8)(B) of CERCLA (regarding claims against nonemployee agents or independent contractors retained by fiduciaries) refers to such parties engaged in property management or hazardous waste disposal and does not

infer that actions should be available against lawyers, accountants and other parties who are retained by a fiduciary but without responsibility for decision-making on hazardous materials.

The language referring to a lender as one who holds indicia of ownership should not be interpreted to mean that a lender who gives up indicia of ownership, either by transferring a security interest to a third party or by relinquishing the interest, loses the protection of the exemption. Under section 101(20)(F)(ii), if a security holder gives up their interest and is subsequently joined as a party in a suit, the former security interest holder will enjoy the same protection enjoyed while holding the security interest.

New section 101(20)(G)(I) is intended to clarify that the defined term extension of credit includes the making or renewal of any loan, the granting of a line of credit or extending credit in any manner, such as an advance by means of an overdraft or the issuance of a standby letter of credit, in addition to the two specifically listed types of lease financing transactions.

This legislation makes the same lender and fiduciary provisions that apply under Superfund law applicable to the Solid Waste Disposal Act, and the underground storage tank provisions of that act. The Environmental Protection Agency should move expeditiously to provide guidance consistent with the statutory language for fiduciaries, who are not currently addressed in section 9003(h)(9) or in the current EPA underground storage tank rule.

It is my hope that this legislation will encourage environmental cleanups by the private sector, and help to put farm land and urban properties back to full use. Lenders will have clear guidance as to the potential environmental liability they face, and, hopefully, small businesses will be able to obtain credit more easily. Fiduciaries receiving property will be able to operate with greater certainty in undertaking their duties.

Mr. President, I want to thank all of my colleagues on the Senate Banking Committee for their hard work on the legislation incorporated in title II. This title contains a significant portion of the committee's agenda for this year. The committee has worked diligently to consider and pass a challenging legislative agenda this Congress. This agenda included Securities litigation reform, BIF/SAIF legislation, Regulatory relief, Fair Credit Reporting Reform, Environmental Lender Liability and Securities Regulatory Reform.

The Committee has worked effectively, on a bipartisan basis, and I commend the entire membership of the committee. I would like to thank the ranking member, Senator SARBANES for his cooperation. I would also like to thank Senators SHELBY and MACK for their stewardship of regulatory reform, and Senators BOND and BRYAN for their leadership on Fair Credit.

Mr. President, I urge my colleagues to support these banking measures which will strengthen our Nation's financial system and protect our taxpayers.

REGULATORY ACCOUNTING

Mr. ROTH. Mr. President, I support the regulatory accounting provision that Senator STEVENS added as section 645 of the Treasury-Postal Appropriations bill, H.R. 3756. I am pleased that this provision was added to the omnibus appropriations bill. This provision requires the Office of Management and Budget to provide Congress with a report including estimates of the total annual costs and benefits of Federal regulatory programs; impacts of Federal rules on the private sector, State and local government, and the Federal Government; a more detailed analysis of the costs and benefits of rules costing $100 million or more, and recommendations to make regulatory programs more cost-effective. I am pleased that this amendment employs the term "rule" which is defined in section 551 of title V, United States Code. This will insure that this report is, indeed, a comprehensive analysis of the costs and benefits of regulation in the broadest sense, including legislative rules, interpretative rules, guidance documents, and the like. In addition, under the amendment, OMB must provide the public notice and an opportunity to comment on the draft report—its substance, methodologies, and recommendations. In the final report, OMB must summarize the public comments.

I share Senator STEVENS' view that the public has the right to know the costs and benefits of Federal regulatory programs. Congress also must have this information to improve agency performance. The total annual cost of Federal regulatory programs is estimated at $677 billion this year. These costs are passed on to the public, and the tab exceeds $6000 for the average American household. While we have made progress in our struggle to balance the budget for tax-and-spend programs, we are just breaking ground for imposing accountability on the regulatory process. It is long overdue. That is why I sponsored regulatory reform legislation that included regulatory accounting last year.

The regulatory accounting report should be a useful tool for Congress. Subsection 645(a)(1) requires OMB to estimate the total annual costs and benefits of Federal regulatory programs. A report from the U.S. Business Administration, "The Changing Burden of Regulation," estimates that these costs will be about $688 billion next year. Those total annual costs (and the benefits) encompass impacts felt both from upcoming rules, as well as older rules that will continue to impose costs and benefits this coming fiscal year. OMB should quantify costs and benefits to the extent feasible, and provide the most plausible estimate. Benefits (and costs) that cannot be quantified should be described in qualitative terms.

To generate this information, OMB should draw upon the wealth of studies and reports already done, including the work of Tom Hopkins and Bob Hahn Where there are gaps, OMB must supplement existing information. To conserve its resources, OMB should issue guidelines to the agencies to gather the needed information, as OMB does for the fiscal budget process. Where detailed information on the costs and benefits of individual programs can be produced, it should be presented to Congress. The public comment period should help OMB generate information and make most plausible estimates of costs and benefits.

By September 1997, OMB must provide Congress with a credible and reliable accounting statement on the regulatory process. This report should demonstrate the costs and benefits of various regulatory programs. It should highlight those programs or program elements that are inefficient, and it should provide recommendations to reform them.

In conclusion, I would like to point out that this effort to enact a regulatory accounting requirement is not a partisan one. Originally, the provision was part of S. 291, a comprehensive regulatory reform bill that was reported out of the Governmental Affairs Committee last year when I was chairman by a unanimous 15-to-0 vote. This effort is, not withstanding repeated misstatements, not designed to roll back progress achieved through regulation but is rather intended to assess where we are and allow us to achieve more good for society at less cost. It is time we found out how efficiently we are achieving our legislative goals through regulation.

MARK VAN DE WATER

Mr. HOLLINGS. Mr. President, as we debate this omnibus appropriations bill, I want to acknowledge the staff that have worked so hard drafting these appropriations bills. They have been working night and day on this compromise bill. In particular, I would like to note Senator HATFIELD's deputy staff director for the Appropriations Committee, Mark Van de Water.

Many pundits said that this omnibus fiscal year 1997 bill was not possible. They said that the Federal Government would have to operate on a 6-month continuing resolution that uses spending formulas. But, behind the scenes, Senator HATFIELD and his staff worked long and hard to develop a basis for compromise. And, for the last few weeks, we all worked around the clock to conclude the negotiations that

made this bill possible. The success of this process and the reality of this bill are due, in no small part, to the efforts of our Appropriations Committee's deputy staff director, Mark Van de Water.

Mark is a graduate of St. Lawrence University in New York where he studied political science and economics. He has worked on the Hill since 1986. From 1991 through 1994, he served on the committee staff as the minority clerk for the District of Columbia appropriations bill. I came to know him as the man who handled Senator HATFIELD's interests in our Commerce, Justice and State appropriations bill. Specifically, he ensured that Oregon's interests were protected in such diverse areas as salmon restoration, NOAA's oceanic research, and Federal law enforcement. In January 1995, Mark became our committee's deputy staff director and J. Keith Kennedy's right hand man.

Since January 1995, we have been able to count on Mark as a force of moderation and decency on the Committee. He continued to operate in his straight-forward, bipartisan fashion even in the winter and spring of 1995, when our Appropriations Committee did not. In September 1995, he worked with my staff to develop compromises and a Hatfield/Hollings amendment that allowed the Commerce, Justice, and State bill to move forward and kept the bill from being recommitted to the Committee. Mark continued to watch out for programs that were of special interest to Chairman HATFIELD, like aid to the poor through the Legal Services Corporation and research of the Pacific Ocean through the National Oceanic and Atmospheric Administration.

Too often we overlook the career professionals who make this institution and this appropriations process work. In Mark Van de Water this institution is lucky to have an individual who carries out his job with the same professionalism and conscientiousness that typifies our chairman, MARK O. HATFIELD. I, for one, would like to acknowledge and thank him for his contributions to the Appropriations Committee and the Senate.

SECTION 318—LOG EXPORTS

Mr. CRAIG. Mr. President, I would like to speak briefly about a provision of this bill which is very troublesome to me. I am talking about Section 318 of this bill which deals with Forest Service administration of log exports.

I view it as unfortunate and unfair to my constituents that the prohibitions in Section 318 appear once again in bill language, as they do in the current year appropriations bill. I did not object to the provision the first time, but its re-appearance in the fiscal year 1997 bill does raise serious concerns. I know the chairman is aware of these concerns.

Section 318 is the cause of a great deal of controversy within the forest products industry because it prevents implementation of the Forest Resources Conservation and Shortage Relief Act of 1990.

Under the law, a review of sourcing areas relative to the export of logs is required after individual sourcing areas have been in place for 5 years. Sourcing areas are geographically defined areas within which companies which export their own private logs are permitted to also purchase Federal timber. Sourcing areas are required to be "economically and geographically separated" from those areas which produce export logs. The purpose is to prevent so-called "substitution"—the illegal replacement of exported private logs with logs from Federal lands.

The Forest Service had begun the 5-year review, but the prohibition in the 1996 Interior and Related Agencies Appropriation bill stopped it cold. Section 318 delays it further, at least through fiscal year 1997.

Mr. President, it is my impression is that there is a fairly broad belief in the industry that the current sourcing area boundaries are illogical in many respects. Neither can they be properly monitored to prevent substitution. Sharply reduced Federal timber supply has dramatically changed historic market patterns and log flow. Companies desperate for logs to keep their mills operating are buying logs in distant locations and hauling them hundreds and hundreds of miles.

It may well be the case that sourcing areas are already obsolete. Under the circumstances of today's log market, it is difficult to imagine how log export zones can be kept "economically and geographically separated," to quote the law, from sourcing areas.

One way to find out is to permit the Forest Service to reopen public comment and proceed with a review of sourcing areas as the law requires. That is what should happen. However, it will not, because of Section 318.

So, I intend to take some jurisdiction on this issue in the Energy and Natural Resources Committee and open the record myself through hearings and testimony in the next Congress. The current state of affairs begs for change, and those changes must not be indefinitely delayed.

I regret that I differ with my colleague from Washington, Senator GORTON, on this matter. But I know I can count on him to cooperate in reaching an equitable solution. He has already indicated he wishes to accomplish the same.

This concludes my remarks regarding Section 318.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1995

Ms. MOSELEY-BRAUN. The Age Discrimination in Employment Amendments of 1995 goes to the heart of the safety and security of the citizens of the United States. Each of us relies on the police officers and fire fighters in our community to protect our families, and to keep us safe.

This provision allows State and local public safety agencies to set mandatory retirement and maximum hiring ages for their police and fire fighters—the same authority the Federal Government already has with respect to Federal police officers and firefighters.

If police officers and firefighters cannot adequately perform their duties, people die and people get hurt—and the officers themselves are endangered. As one fire fighter put it,

"Firefighters and police officers must work as a team. We depend on the other members of our crew to have the strength and savvy to save our life if the need arises. If we are unable to do our job, people die."

This provision provides a necessary, narrow and appropriate exemption from the Age Discrimination in Employment Act for State and local public safety officers—necessary and appropriate because numerous medical studies have found that age directly affects an individual's ability to perform the duties of a public safety officer.

Reflexes, sight and other physical capabilities decline with age, while the risk of sudden incapacitation—heart attacks and strokes for example—increases six-fold between ages 40 and 60. Although firefighters over 50 comprise only one-seventh of the total number of firefighters, they account for one-third of all firefighter deaths.

The Age Discrimination in Employment Amendments of 1995 gives State and local governments the same right to set mandatory retirement ages for their police and firefighters as the Federal Government.

I want to emphasize this point. We in Congress already made the decision to allow mandatory retirement ages for Federal public safety officers. This amendment simply extends that same right to State and local governments.

And, this provision merely allows State and local governments to set mandatory retirement and maximum hiring ages if they so choose—it is not a mandate.

The Federal Government has deemed mandatory retirement ages necessary to provide for the safety and security of the Federal firefighters and police officers and the citizens they protect—State and local governments should be able to make that same decision.

The Federal police officers, agents, and firefighters covered by mandatory retirement ages, include: the U.S. Park Police; the Federal Bureau of Investigation; the Department of Justice law enforcement personnel; the District of Columbia firefighters; the U.S. Forest Service firefighters; the Central Intelligence Agency; and Federal firefighters.

The Capitol Police—the men and women who protect the Members of

Congress—have a mandatory retirement age.

All too often in the past, Congress has treated itself differently than other Americans. With the passage of the Congressional Accountability Act, this Congress made it clear that it is committed to ending disparate treatment. Every Senator who voted for the Congressional Accountability Act should vote for this bill.

The Federal Aviation Administration recently extended it's mandatory retirement age of 60 to all pilots that fly 10 or more passengers to increase safety on commuter planes.

These pilots take twice yearly physicals, they have a copilot at their side ready to take the controls if anything happens, and still they must retire at age 60. After age 60, the risk of incapacitation becomes too great—too many lives are at risk in the air. These same lives are at risk on the ground if our police and firefighters are unable to do their job—and all too often, our police and firefighters don't have a copilot waiting to assist in an arrest or a burning building.

As a general rule, the Age Discrimination Act prohibits employers from discriminating against workers solely on the basis of age, and generally prohibits the use of mandatory retirement and minimum hiring ages.

Police officers and firefighters and all public employees were exempt from the Age Discrimination in Employment Act until a 1983 court ruling placed public employees under the act. State and local governments were then required to either prove in court that mandatory retirement and minimum hiring ages for police and firefighters were bona fide occupational qualifications [BFOQ's] reasonably necessary for the normal operation of the business or else eliminate them.

Although this approach sounds reasonable, courts in some jurisdictions ruled limits permissible, while identical limits were held impermissible in other jurisdictions. For example, the Missouri Highway Patrol's minimum hiring age of 32 was upheld while Los Angeles County sheriff's minimum hiring age of 35 was not. East Providence's mandatory retirement age of 60 for police officers was upheld while Pennsylvania's mandatory retirement age of 60 was struck down.

As a result, no State or local government could be sure of the legality of its hiring or retirement policies. They could, However, be sure of having to spend scarce financial resources to defend their policies, regardless of the outcome of their suits.

A suggested alternative to mandatory retirement ages is testing that screens out those individuals who may still retain their strength at the age of 60 or 70. The 1986 Amendment to the Age Discrimination Act authorized State and local governments to set minimum hiring ages and mandatory retirement ages until December 31, 1993. It also ordered the EEOC and the Department of Labor to conduct a study to determine: whether physical and mental fitness tests can accurately assess the ability of police and fire fighters to perform the requirements of their jobs; which particular types of tests are most effective; and what specific standards such tests should satisfy.

Finally, the 1986 amendment directed the EEOC to promulgate guidelines on the administration and use of physical and mental fitness tests for police and firefighters.

While the Penn State researchers who conducted the study concluded that age was a poor predictor of job performance—because they could not find an exact age at which people are unable to perform their duties—they failed to evaluate which particular physical and mental fitness tests are most effective to evaluate public safety officers and which specific standards such tests should satisfy.

Despite the very clear mandate in the 1986 amendment, neither the EEOC nor its researchers were able to comply with that mandate. There were no guidelines developed to assist State and local governments in the design, administration, and use of tests, as Congress directed. As a result, State and local governments now find themselves without a public safety exemption from the Age Discrimination in Employment Act, and also without any guidance as how to test their employees.

The provision included in this bill authorizes the National Institutes of Occupational Safety and Health [NIOSH] to conduct a study of fitness tests for police and firefighters, to begin when sufficient funds are appropriated, that produces useful information for public safety agencies working to protect citizens and the officers and firefighters.

The provision also includes an exception to the exemption whereby NIOSH will identify valid job performance tests and public safety agencies utilizing mandatory retiement ages will provide public safety officers who have reached retirement age with an annual opportunity to demonstrate their fitness using the NIOSH tests.

I firmly believe that Congress must avoid exempting whole classes of employees from the protection of civil rights laws unless it is absolutely necessary. But this is not a civil rights issue. This is not a new exemption.

The Federal Government already exempts public safety officers from ADEA. State and local fire and police agencies should have the same exemption so that they too can protect and promote the safety of the public and of the officers.

As many of you in this body know, I come from a law enforcement background. My father was a police officer. My uncle was a police officer. My brother still is a police officer. It is the police officers and firefighters themselves that have asked for this amendment.

Rank and file public safety officers have besieged my offices with calls and letters and visits in support of the amendment. As Terry Gainer, director of the Illinois State Police, testified before the Labor Committee hearing on this legislation.

"The demands of public safety necessitate a high degree of physical fitness and mental acuity. What we see today are offenders who are increasingly younger and more violent; police manpower shortages translate into less backup * * * terrorist acts such as we saw in Oklahoma City or at the world trade center require * * * arduous duty. It is the quality of police and fire response . . . that is at issue."

I strongly believe that we in Congress must do everything we can to ensure that our rank and file officers have everything they need to do their jobs.

This provision has the support of the: Fire Department Safety Officers Association; Fraternal Order of Police; International Association of Fire-Fighters; International Association of Chiefs of Police; International Brotherhood of Police Officers; International Society of Fire Service Instructors; International Union of Police Associations, AFL-CIO; National Association of Police Organizations; National Sheriffs Association; National Troopers Coalition; American Federation of State, County and Municipal Employees; National Public Employer Labor Relations Association; New York State Association of Chiefs of Police; and city of Chicago Department of Police.

This provision is also supported by the: National League of Cities; National Association of Counties; National Conference of State Legislatures; and U.S. Conference of Mayors.

Let me conclude by clarifying what this amendment is and is not about.

This provision is not about inequity. This provision is about equity for State and local governments—giving them the same ability to set mandatory retirement and maximum hiring ages that the Federal Government enjoys.

This provision is not about discrimination. This provision is about public safety—providing the people of this country with the most capable protection and assistance possible.

And this provision is not about mandates. This provision is about State and local control—letting local and state governments decide how best to protect their citizens.

On behalf of the police officers and firefighters of this country, on behalf of their families, and on behalf of the millions of citizens who rely on local police officers and firefighters every

day, I thank my colleagues for for including the Age Discrimination in Employment Amendments of 1995 in this legislation.

ILLEGAL IMMIGRATION

Mr. KOHL. Mr. President, I rise today in support of the conference report to H.R. 2202, legislation to combat the problem of illegal immigration. As you know, this measure has been included in the omnibus appropriations bill for fiscal year 1997.

The conference report is an important step forward in our Nation's fight against illegal immigration to this country. As a member of the Senate Judiciary Committee and a conferee to the negotiations with the House, I am pleased to have been part of the hard work, commitment and bipartisanship that yielded this good, balanced bill, of which we can all be proud. My friends, TED KENNEDY and ALAN SIMPSON, deserve much of the credit.

Mr. President, this legislation provides the Immigration and Naturalization Service [INS] and other law enforcement officials with new resources to prevent aliens from entering or staying in the country illegally: 1,000 new border patrol agents for each of the next 5 years, additional INS investigators to combat alien smugglers and visa overstayers, and enhanced civil penalties for illegal entry, to name just a few.

The conference report also gives the INS and businesses tools to keep American jobs and paychecks out of the hands of illegal aliens—tools to prevent illegal aliens from securing employment that rightfully belongs to American citizens or legal immigrants who have played by the rules and respect the law. Specifically, this legislation provides for three pilot programs to move us toward a workable employer verification system and a framework for the creation of more fraud resistant documents. The original Senate approach, which included more privacy and antidiscrimination protections, was preferable to the one adopted by the conference; however, the pilot projects in this bill still deserve a try. We desperately need a more effective verification system, Mr. President.

Finally, I am pleased that the conference report includes my amendment on mail-order brides. This amendment launches a study of international matchmaking companies, heretofore unregulated and operating in the shadows. These companies may be exploiting people in desperate situations. The study is not aimed at the men and women who use these businesses for legitimate companionship. Instead, it is a very positive and important step toward gathering the information we need so that we can determine the extent to which these companies contribute to the very troubling problems of domestic violence against immigrant women and immigration marriage fraud.

To be sure, there are provisions in this bill which I do not support. The triple fence mandate has Congress micromanaging the INS and unnecessarily waiving important environmental laws. And I regret very much that the Senate positions on summary exclusion and asylum reform did not prevail in the final compromise bill. Lastly, we could have done more to protect the integrity of the workplace, both by enhancing the Department of Labor's ability to enforce employer sanctions and by rejecting the Senate-passed "intent standard" which may jeopardize the rights of American citizens and legal immigrants.

Despite these flaws, this bipartisan legislation deserves our support. The United States is a product of an immigration tradition marked by generosity, compassion and commitment to hard work. In adopting these important changes, we are protecting that tradition by fighting the deeds of those who wish to exploit it.

Thank you.

COMMERCE DEPARTMENT APPROPRIATIONS

Mr. ROCKFELLER. Mr. President, because of the scope and magnitude of the negotiations over the omnibus appropriations bill, the attention that I believe should be paid to the future of technology research and development has not exactly been head-line news. Fortunately, the results are good news. By and large, critical investments in a series of relevant programs are being made through this bill. Once again, we have dodged the budgetary and philosophical bullets that have been aimed for months at programs that I see as critical to America's competitiveness, economic growth, and character.

The Commerce Department is the only Federal agency that is primarily concerned with advancing our Nation's civilian technological competitiveness. And the Commerce Department has worked hard—under the fantastic leadership of the late Ron Brown and now Mickey Kantor—to establish partnerships between Government and industry for our national interest.

This administration and the Commerce Department have been at the forefront, establishing and nurturing a web of programs that strengthen the Nation's competitiveness. These programs, taken together, represent a comprehensive, multi-pronged and efficient effort to prepare the Nation for the 21st century.

I congratulate President Clinton, Vice-President GORE, and the various Senators, with special mention to Senator HOLLINGS, for their steadfast determination to obtain the resources now in this appropriations bill to continue investing in technology R&D—so that our country is the nation with the cutting-edge jobs, industries, and skills in demand.

The Manufacturing Extension Partnership [MEP] is doing yeoman's work throughout the states, working at the grass roots, helping small- and medium-sized businesses use technologies to improve their efficiency and profitability. The MEP brings tremendous expertise to businesses, helping them to improve production on the shop floor, apply modern management methods, and raise environmental quality while decreasing costs.

And the Advanced Technology Program [ATP] is doing for technology what the government did for our highway system in the fifties and sixties. President Eisenhower recognized that national security and economic needs demanded that the Federal Government invest in a national highway system—no one could reasonably expect industry to build such a system alone. And today, that system is an indispensable part of our Nation's infrastructure. Well, the ATP is doing the same—helping industry build new technologies critical to the growth of our economy—technologies that industry would not likely develop, or develop as rapidly, without a partnership between government and industry.

The ATP, which was created with bipartisan support, is a highly competitive, cost-shared, industry-led partnership program that is fostering new technology and creating jobs. Approximately 46 percent of all awards go to small businesses or joint ventures led by small businesses. More than 100 different universities are involved in about 150 ATP projects.

The Commerce Department also has performed a critical role in paving another highway—the information superhighway. Commerce has provided leadership in advancing the national information infrastructure [NII] and is working hard to help hospitals, schools, libraries, and local governments access and use the wonders of this new fantastic resource.

The Commerce National Telecommunications and Information Administration [NTIA] Technology and Information Infrastructure Applications Program [TIIAP] is a highly competitive, merit-based grant program that provides seed money for innovative, practical information technology projects throughout the United States. Examples include connecting schools to the vast resources of the Internet, improving health care communications for elderly patients in their homes, and extending emergency telephone service in rural areas.

And the National Institute of Standards and Technology [NIST] is doing the work that the Nation's Founders found so essential to our Nation's trade and economy that they included the responsibility in the Constitution—caring for our Nation's system of weights and measures. NIST laboratories perform world-class work in a way that the Nation's Founders could never have imagined.

For example, the use of fiber optics in telecommunications would not have occurred as rapidly without NIST's efforts. NIST's work in measures and standards has literally made it possible for fiber optic cables to be connected with each other with simplicity and ease—leading to a world connected by fiber.

The Commerce programs are providing States such as mine, West Virginia, great benefit, enabling us to do things we otherwise could not do. The West Virginia Partnership for Industrial Modernization [PIM] in Huntington was established in 1995 as a partnership of the State of West Virginia Development Office, the Marshall University Research Corporation/Robert C. Byrd Institute and the West Virginia University Extension Service and NIST. The center serves smaller manufacturers throughout the State. WV PIM just received a NIST/EPA cost-shared award to help smaller manufacturers reduce or eliminate pollution sources in their operations.

The Advanced Technology Program is working hard to tackle a problem that has plagued our health care system—the cost of paperwork. The Charleston Area Medical Center and the Statewide Health Information Network of Charleston, WV, are participating in two ATP joint ventures to improve the technologies and methods used to handle medical information. These projects are partnerships of industry, clinical facilities, universities and national laboratories, working to establish the capabilities necessary to transform fragmented health care data into integrated, community-wide computerized information resources. These projects have enormous potential for reducing health care costs and improving health care service delivery for every American.

The Commerce Technology and Information Infrastructure Applications Program [TIIAP] is particularly important to my home state of West Virginia, a heavily rural state. A TIIAP grant to the state library system will give citizens of West Virginia access to information around the globe. And Project InfoMine will expand the existing statewide information network to 50 unconnected remote libraries in the outer reaches of rural West Virginia. Project InfoMine will enable unemployed miners to find off-site work information or retraining opportunities. Expectant mothers will be able to find health, diet, and childcare information.

Commerce NIST laboratories have provided assistance to West Virginia businesses, by providing weights and measures services that would not otherwise be available or affordable. NIST helped West Virginia businesses certify their laboratories to national accreditation standards and assisted manufacturers by providing NIST calibration and standard reference services.

RESTORATION OF THE PRESIDENT'S REQUEST

Fortunately, we have achieved funding for the Advanced Technology Program at the level of $225 million, although short of the Presidents request of $365 million. Restrictions regarding new competitions have also been removed. And the TIIAP program is funded at $21.5 million, short of the request of $59 million. These programs remain at a viable, although not fully supported level.

Unfortunately, we did not realize the same success with the request to fund construction of the NIST Advanced Technology Laboratory, which is critical to the modernization of the NIST measurement activities. It remains unfunded.

We will need to return to this important debate next session.

Mr. President, America is a nation of competitors and innovators. We do our best when faced with competition. Well, we are facing increasing international competition. This is the time for the Federal Government to crank up our engine of economic competitiveness, to build partnerships with industry, universities and the States.

West Virginia is doing its part to prepare for the 21st century, by helping manufacturers compete, and wiring our schools and libraries to the information superhighway. We need the Federal Government to maintain its part, to provide national leadership in science and technology, and to boost our ability to compete.

I ask this Congress to continue the progress, to maintain Commerce's technology programs, and to help achieve the progress that will be needed to ensure a prosperous future for all Americans in the 21st century.

Mr. FEINGOLD. Mr. President, I rise in strong opposition to the immigration provisions that are now included in the continuing resolution.

It should come as no surprise that it took nearly 5 months after the Senate passed this bill for the House and Senate conferees to finally be appointed. It should not surprise us that our colleagues on the other side of the aisle initially drafted this conference report amongst themselves, and refused to allow a single democratic amendment to be offered during the conference committee. Some changes were made when the conference report was merged with the omnibus continuing resolution, but the basic provisions were developed in a very partisan process.

And finally, it should come as no surprise that the Senate is considering this legislation in the middle of the campaign season. Rather than offering any surprises, the circumstances surrounding us is a clear confirmation that this legislation is less about combating illegal immigration than it is about trying to score political points.

Let me begin by observing that there is clearly no demonstrable support in this Congress, nor in this country, for reducing levels of legal immigration.

Such reductions were stripped from the House bill and omitted from the Senate bill. I have said repeatedly that there is some abuse of our legal immigration system and we should take appropriate steps to repair this process.

But it is clear that a large majority of this body and the other house believes in continuing our longstanding national policy of allowing families to reunite, of continuing to allow foreign skilled workers to be sponsored by businesses, universities and research facilities, and ensuring that the United States continues to be a safe haven for those fleeing persecution from around the world.

Mr. President, for anyone who has witnessed the evolution of this legislation, from its inception last spring to the conference report language included in the continuing resolution that is before us today, it is obvious that the commitment of those of us opposing this conference report to combating illegal immigration is just as strong as those who are supporting this legislation.

As virtually every expert on this issue agrees, combating illegal immigration must be a two-pronged strategy. The first part of that strategy is border enforcement, particularly along the southwestern border where tens of thousands of illegal immigrants cross into the United States each year.

I have supported President Clinton's increases in the U.S. border patrol and I support the further increases contained in this legislation.

But a comprehensive strategy must also account for those illegal immigrants who enter the United States legally, usually on a student or a tourist visa, and then remain here unlawfully. This, we know, represents up to one-half—one-half Mr. President—of our illegal immigration problem.

So how do you address this problem, known as the visa overstayer problem. Some of my colleagues advocate installing a worker verification system, where employers would have to verify the eligibility status of each worker they hire with the Federal Government.

I have long opposed this approach for a variety of reasons. I think it will be a costly burden for our Nation's employers. I think it will lead to an inordinate amount of mistakes resulting in too many law-abiding Americans being denied job opportunities for the wrong reasons. I have concerns that the privacy protections for these workers are inadequate.

And that is why the worker verification proposal in this conference report causes me serious concern.

It has been pointed out that the verification pilot programs in this bill are purely voluntary. Voluntary for whom, Mr. President? It is voluntary for the

employers, sure. But not the employees.

Workers do not get a choice of whether or not their name is fed into some Federal Government computer to verify whether or not they are eligible to work in the United States.

Interestingly, both in the Judiciary Committee and here on the Senate floor, concern was expressed that these verification proposals could lead to some sort of national identification document. The sponsors of this bill scoffed at such a notion. They said there was nothing in this bill that would create such a document nor require Americans to carry one.

Well, let's just take a look at the final agreement. The legislation before us requires that one of the worker verification pilot programs, which must involve millions of United States citizens in at least 5 States, include the use of (quote) "machine readable documents."

Now keep in mind that this conference report already imposes a massive Federal mandate on the States by requiring them to only issue birth certificates and driver's licenses that conform to Federal standards.

Let me repeat that, Mr. President. Under this legislation, the State of Wisconsin will have to issue drivers licenses based on guidelines set forth by the Department of Transportation.

If the DOT tells Wisconsin to add a costly new security feature to their licenses, Wisconsin will have to comply. It does not matter how much it costs. It does not matter what sort of burden that places on the State agency. And it certainly does not matter if the State of Wisconsin concludes that such a security feature will cost far more than any benefit it will derive.

I see that the conference report has added language that the Federal Government shall make grants available to the States to help pay for this new mandate. I am sure that is of little comfort to the states. It is clear that considering our fiscal constraint right now, the chances of these grants actually being made available through the appropriations process is an uphill battle to say the least.

And that is why this provision continues to draw strong opposition from the National Conference of State Legislatures and the National Association of Counties. So clearly all the talk we have heard over the last 2 years about taking power out of the hands of Washington bureaucrats and placing it back in the hands of the States and local governments was little more than political grandstanding.

Those were empty words, Mr. President, pure and simple.

The federalization of these documents was a part of the Senate-passed immigration bill. But now we have this new twist, that one of the verification programs is to utilize (quote) "machine-readable documents."

That means that in those States that are included in this pilot program, the applicable State agency will also be responsible for ensuring that their drivers licenses or other such documents are embroidered with a machine-readable social security number.

Mr. President, these verification and birth certificate provisions alone are enough to oppose this legislation. But there are a number of other provisions that were jammed into this conference report that make little if any sense.

Let's look at the triple fence we are now going to build between Mexico and Southern California. This is to be a 14-mile-long fence with three separate tiers to make it as difficult and painful as possible for intruders to navigate. The conference report authorizes $12 million for the initial construction of this wall.

But according to INS, the fence and roads in between the three tiers will likely have a final price tag of between $80 and $100 million by the time construction is completed.

One hundred million dollars, Mr. President, for a 14-mile-long fence. That works out to be $4,100 a yard, Mr. President; $4,100 for one yard of fence and road. I'd like to know who's getting that Government contract.

But it gets worse. During Senate consideration of this legislation, language was added to the bill that made sure that INS had some input as to where these barriers were erected.

That language has magically disappeared. Instead, the bill provides for the construction of the 14-mile long triple fence, (quote) "starting at the pacific ocean and extending eastward".

It doesn't matter if INS believes the fence would be more effective a half-mile away from the ocean. Of course, if I am an illegal immigrant and see a huge wall starting at the ocean and extending eastward, I might just throw a life preserver on and swim around it. I'm sure this triple fence will follow in the footsteps of the other great physical barriers, such as the Berlin Wall and the great Maginot Line.

Mr. President, when this bill left the U.S. Senate last April, there was one provision that I thought would make a marked difference in terms of focusing in on the 50 percent of illegal immigrants who come here by legal means, the so-called visa overstayers.

It was a provision authored by myself and the junior Senator from Michigan Senator ABRAHAM. The Abraham-Feingold language, for the first time ever, imposed tough new penalties on those who come here on a legal visa and remain in the United States long after the visa has expired.

It required the Attorney General to implement an automated system of tracking the arrival and departure of nonimmigrant aliens, permitting for the first time computer identification of nonimmigrants who overstay their visas. And finally, it authorized over 300 new investigators each year for 3 years dedicated solely to the purpose of identifying these visa overstayers.

That bipartisan proposal represented the sort of sensible targeted approach to combating illegal immigration that could be supported by Senators of all partisan and ideological persuasions. Our strategy for combating illegal immigration should not be about building walls, or creating a national worker verification system, or placing a brigade of marines on the southwestern border, or telling an immigrant family that they cannot bring a parent, a child or a spouse into this country.

It should be about identifying who is and who is not playing by the rules, and sending a strong message that there are severe penalties that will be enforced against those who choose to break our laws.

Unfortunately, a change was made to the Abraham-Feingold language in the conference report that I believe greatly undermines the effectiveness of this provision.

The Senator from Michigan and I very carefully crafted our language to provide a broad-based exception from these penalties for any individual who could demonstrate good cause for remaining in the United States without authorization. Why were we so careful to include this exception, Mr. President? Quite simply, there are many good reasons why an individual might not leave the United States immediately after their visa expires.

Perhaps they have become ill. Perhaps a family member has become ill. Maybe they need a short extension to raise the money to leave the country. There are a variety of reasons, some legitimate, some not. But our language would have put the burden on the nonimmigrant to demonstrate good cause to the INS. Instead, this conference report wipes out that important exception, and essentially only provides an exception to a nonimmigrant who has remained in the United States because they have a claim for readjustment of status pending at INS.

That Mr. President, is troublesome,

And I have serious concerns that this will result in countless nonimmigrants being subject to harsh penalties for no fault of their own. That is yet another example of sound policy being thrown to the wayside for no apparent legitimate reason.

Finally, Mr. President, I want to address the asylum provisions in this legislation that the Senator from Vermont, Senator LEAHY, has so eloquently shown to be very troublesome.

America has a proud history of representing a safe haven for those who believe in democracy and who have been tormented for embracing particular political and religious viewpoints. It should continue to do so.

We have had, no doubt, serious problems and abuses with our asylum system. In the past, too many nonmeritorious claims have been filed, and the result has been a massive backlog of pending claims that has prevented or delayed more legitimate claims from being processed.

I do not believe, however, that sort of abuse is adequate justification to place countless obstacles in front of those who have legitimate asylum claims. Moreover, before we consider passing any heavy-handed reforms, we should remember that the Clinton administration has made tremendous progress in reforming the asylum system in just the past year or so.

As a result of these new reforms, in the past year alone, new asylum claims have been cut in half and INS has more then doubled their productivity in terms of processing new claims. Mr. President, these promising reforms are in their infancy and we should be very careful not to mandate any new restrictions that will impede the progress INS is now making and prevent legitimate claims from being considered in as expedited fashion as possible.

The summary exclusion provisions in this legislation are unnecessarily harsh and make little sense. This provision states that if you are living in a country where you are being persecuted, if the regime you are living under is oppressive, and you are forced to falsify your papers in order to gain safe passage to the United States—this legislation says that you are unwelcome in the United States. It literally shuts the door on thousands of asylum seekers who find themselves in this position.

Mr. President, I do not understand what the authors of this language could possibly be thinking. Often we hear the well-publicized cases of persons seeking asylum in this country, whether it is Fidel Castro's daughter or members of the Cuban national baseball team.

But most people who are seeking asylum aren't relatives of celebrities, or famous national athletes. Often, they are working people, who are being imprisoned and often tortured for their religious or political views. How can we expect these people to walk into a government agency in their home country and obtain the necessary paperwork to leave that country? We can't Mr. President, and that is why I am afraid that this provision will have disastrous consequences for a great many individuals seeking political asylum in the United States.

Mr. President, to conclude, the conference report before us has turned into little more than an incoherent and unjustifiable attack against immigrants and refugees. There are 100 senators in this body who are genuinely committed to reducing illegal immigration and punishing those who choose to break our laws.

Unfortunately, I think it is clear that what some of our colleagues could not do directly in terms of reducing legal immigration is being accomplished indirectly. You can do it by cracking down on legal immigrants who use welfare. You can do it by cracking down on persecuted individuals seeking asylum. You can do it in a host of ways, and I am afraid that is exactly what this conference report has accomplished.

Thank you Mr. President and I yield the floor.

Mr. BRYAN. Mr. President, I wish to engage my esteemed colleague Chairman D'AMATO in a brief colloquy to clarify two items pertaining to the Fair Credit Reporting Act [FCRA] amendments contained in the H.R. 4278, the Omnibus Consolidated Appropriations Act of 1997. First, the House of Representatives in negotiations over the weekend deleted a Senate-approved measure which would have codified the permissibility of direct marketing under the FCRA. The deletion leaves the law silent on this issue, retaining the status quo. The House action does not reflect any congressional intent regarding the extent to which direct marketing is permissible under FCRA.

The second item relates to a requirement imposed under section 609 of the FCRA for personnel being accessible to consumers. The requirement that personnel be available under normal business hours is not intended in any manner to interfere with the use of automated menu telephone systems which provide the consumers with a range of options. The standard is satisfied as long as the system provides a consumer the option to speak to a live operator at some point in the audio menu.

Does the chairman confirm these understandings?

Mr. D'AMATO. Yes, Senator BRYAN. I agree with your assessment on these points.

Mr. DODD. Mr. President, I rise this afternoon to express my disappointment that the banking provisions contained in H.R. 4278, the Omnibus Appropriations bill, do not contain commonsense requirements that bank employees who sell insurance be subject to the same State licensing requirements as insurance agents.

There are many parts of the banking section with which I am pleased, particularly the final resolution of the financial crisis that was looming over both the Savings Association Insurance Fund [SAIF] and the Bank Insurance Fund [BIF]. However, while the House and Senate leaders went to great lengths to include regulatory relief legislation that benefits the banks, they failed to include any similar relief for tens of thousands of independent insurance agents across the country.

In many respects, the story of most independent insurance agents is the story of the American dream. In cities, towns and villages throughout the Nation, these men and women are the small business people who provide the foundation for local economic success. In addition to providing economic opportunity in their community, independent agents are often the same people who lead the local Rotary Club or Lions Club, who chair the P.T.A. or who spend their weekends coaching little league.

But these people are under great strain from a competitive environment that is increasingly favoring the banks over the agents. The banks' advantage is growing because recent court rulings have given great powers to the bank regulators to allow banks to sell insurance products. Let me be perfectly clear: I do not take issue with the way in which the regulators have been performing their duties. The problem stems from the fact that the regulators mandate requires them to make decisions based solely upon the impact those decisions will have on the banking industry. No regulator could—even if it wanted to—take into account how their rulings would impact on tens of thousands of hard-working independent insurance agents.

That is why I was so disappointed that this common-sense provision requiring State licensing was not included in the Omnibus Appropriations bill.

In point of fact, Mr. President, this licensing provision was taken almost verbatim from the interim guidelines on insurance sales issued by the Office of the Comptroller of the Currency, the main regulator of national banks.

A consumer who is purchasing an insurance product should have the confidence to know that the person selling the insurance has the same education requirements, passed the same tests, is subject to the same rules of conduct—whether that individual sells insurance at a bank or at an independent agency. Yet for some inexplicable reason, this very modest, pro-consumer amendment was vehemently resisted by powerful forces within the banking industry.

Mr. President, this is not an issue that will simply go away. Although there was not an appropriate opportunity to offer this amendment to the Omnibus Appropriations bill, neither I, nor many of my colleagues, will stand idly by and watch thousands of hard-working men and women lose their jobs because of a regulatory scheme that cannot, by statute, take their well-being into account. I can assure my colleagues, as well as those representing the financial industries, that when the next Congress considers legislation dealing with bank powers and financial restructuring, I will be a forceful advocate on behalf of the legitimate concerns of America's independent insurance agents.

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

Mr. SIMPSON. Mr. President, I rise to address my friend from Alabama regarding the issue of funding for new High Intensify Drug Trafficking Areas (HIDTAs) in the Omnibus Appropriations bill for fiscal year 1997. I seek a clarification of the report language that accompanies the Treasury-Postal title of this bill, which earmarks specified amounts for new HIDTAs, including $3,000,000 for a newly designated HIDTA in the State of Colorado. I inquire as to whether my colleague from Alabama is aware that the HIDTA application originally submitted by the State of Colorado has been updated to include the States of Wyoming and Utah in a Rocky Mountain HIDTA?

Mr. SHELBY. I would say to my friend that at the time this bill was drafted and I was not aware of that development.

Mr. SIMPSON. I would ask my friend from Alabama if he feels the existing report language could preclude those funds currently earmarked for the State of Colorado from being applied to all Members of the Rocky Mountain HIDTA.

Mr. SHELBY. I would tell my friend that I have encouraged the Drug Czar to work in terms of regional cooperation rather than focusing on individual States, and I am pleased to learn that the Rocky Mountain States are pursuing such an association. To that end, I would agree with the Senator from Wyoming that this money should go to meeting the updated application's program objectives.

Mr. SIMPSON. I would further inquire if it is still possible for the Office of National Drug Control Policy to consider using some of their discretionary funds to provide additional funding for the Rocky Mountain HIDTA?

Mr. SHELBY. Yes. Although the bill sets out minimum amounts to be transferred to state and local entities for drug control activities, I would certainly encourage the Director to transfer additional funds where needed for appropriate state and regional efforts.

Mr. SIMPSON. I thank my friend for his courtesy, and for his many hours of tireless work on this bill.

COMMERCE, STATE AND JUSTICE FY 1997 APPROPRIATIONS BILL

Mr. LIEBERMAN. Mr. President, I rise to discuss the Department of Commerce technology programs that I believe were underfunded in the original Senate appropriations bill for Commerce State Justice as reported by committee, and are better funded in this Continuing Resolution. The programs that I am referring to are important to the future of the U.S. economy—to our economic security, global competitiveness and high-skilled jobs. Without these types of technology programs in place, I am concerned that America could lose the technological innovation race as it confronts our international competitors. These technology programs help America compete in the global marketplace and are helping to make our economy stronger. The irony is that by cutting technology programs we would be cutting programs that are already making our economy stronger. I am concerned that the cuts originally proposed in the Commerce Appropriations bill would have helped lead to an undermining of the foundation that links our support of scientific research to technologies which have the potential to continue to keep America at the forefront of global leadership. I am very pleased that many of these cuts have been corrected in the Continuing Resolution.

The Commerce, State, Justice Appropriations bill as reported by Senate Committee provided inadequate funding to Commerce technology programs. If it had been left unchanged, this bill could have led to the unraveling of investments the Senate has long supported to advance our nation's civilian technological competitiveness. The late Secretary Ron Brown and other Administration leaders worked diligently with the ranking member on this Subcommittee, Senator HOLLINGS, and others in Congress, to develop Federal programs that link up with the private sector to foster new ideas that may underpin the next generation of products. These provide some of the small number of information channels that assure that the ideas generated in our world class research institutions evolve in the marketplace. I commend the Commerce Department's hard work and foresight in recognizing that America has entered a new era, an era where economic battles are fought as fiercely as military actions. The Commerce technology programs that were initiated with bipartisan support arm us with the best equipment and strategies we have to surmount our international competitors' efforts.

Our technology edge in the marketplace for the past half century has translated directly into high tech jobs for our workplace, new markets for American business, improvements in our balance of trade, and from this economic success, revenues for our treasury. The original Senate bill proposed to deplete resources from one of the basic long-term building blocks of our economic growth: applied research and development.

Our global competitors must be chuckling at our muddled vision. Japan has announced plans to double its R&D spending by the year 2000; it will surpass the United States in nondefense R&D in total dollars spent; it is already passing us in R&D expenditures as a share of GDP. This is an historic reversal. Germany, Singapore, Taiwan, China, South Korea and India are also aggressively promoting R&D investment. Our lead in R&D has been our historic competitive advantage. While our competitors are increasing their R&D investments, both public and private R&D investment is being cut in the U.S. If these global trends in R&D spending continue, America will rue the day it lost its R&D lead and therefore its technology lead. The leading ecocomic studies show that technology innovation has contributed to half or more of our economic growth for the past half century. By allowing our R&D lead to erode, we are jeopardizing our future economic growth.

The technology programs at Commerce are not a large part of our total R&D investment. Why should we be particularly concerned about them? A number of the Commerce programs are the connectors, the infrastructure, between the basic research establishment and the evolution of technologies into practical use. They are highly efficient investments, leveraging Federal dollars with matching private investment to ensure risk sharing and therefore prudent investment and improved liklihood of investment results. The cuts in the original Senate version of this appropriations bill took aim at the new and evolving infrastructure of technology development, which is why they were so serious.

The Technology Administration at the Department of Commerce houses many of the critical components of technology development and we need to ensure that its key functions are maintained. The technology programs I am particularly concerned about are the Advanced Technology Program (ATP), the Manufacturing Extension Program (MEP), the completion of the Advanced Technology Laboratory construction and National Telecommunications and Information Administration (NTIA) Technology and Information Infrastructure Grants Program (TIIAP). In total, these programs ARE the tools I mentioned earlier that make up the comprehensive and efficient effort to retain our technology leadership.

I will focus my attention on two programs that were hit hard by the original Senate Appropriations bill: ATP and the NIST Advanced Technology Laboratory construction. I will also note problems in cutting the NTIA grant program.

I am pleased that the original Senate bill did recognize the importance of the Manufacturing Extension Program by providing it substantial funding, as does the Continuing Resolution, providing $95 million for FY 1997. The MEP program is in the process of reaching small and mid-sized businesses in nearly every state with new advanced technology options.

ADVANCED TECHNOLOGY PROGRAM

ATP was enacted during the Bush administration to address technical challenges facing U.S. industry. This program adeptly addresses the development of high-risk, long-term technologies by top-notch firms, including small-to-medium sized companies, in a way that respects the marketplace and avoids inappropriate government intrusion. In an independent study, Semiconductor Equipment and Materials International (SEMI), an association comprised of 1,400 small companies that manufacture materials and equipment for semiconductor manufacturers, found that 100 per cent of the companies who participated in the ATP Program rated it very favorably. Likewise, nearly two-thirds of the modest sampling of ATP-award companies surveyed by the Industrial Research Institute, an association of over 260 research companies who account for 80 per cent of industrially-performed R&D, rated ATP with very high marks. The various reviews of ATP show that it has effectively acted as a catalyst to develop new technologies and to foster ongoing joint ventures within industrial R&D.

In my view, we should continue to support this program and we should restore the President's fiscal year 1997 request of $345M. The original Senate bill proposed funding for the Advanced Technology Program at a level of only $60 million, slashing $285 million from the President's request. This bill provided inadequate funding to support current commitments and included language prohibiting new awards. Clearly, the ATP cuts in this bill would have severely handicapped and ultimately annihilated the ATP program. The Senate bill also disregarded the bipartisan agreement reached last year to stop the train wreck and to maintain funding for ATP. I am very pleased that the final Continuing Resolution restores significant authority to the ATP program, funding it at $225 million, including funding for new ATP awards as well as to continue existing awards. This is a major improvement and I thank the President's Chief of Staff, Leon Panetta, and his staff; Senator HOLLINGS and Scott Gudes and Pat Windham of his staff; Appropriations Chairman Hatfield, and the others involved who were able to negotiate this change. It's not full funding, and this is an investment program that should be expanding, but it is an important step back on track.

The restrictions in the original bill that would have prohibited funding for awards to be made resulting from the ATP competition announced in May 1996, have been removed in the Continuing Resolution. I note that ATP has some carryover funds set aside for this purpose and, as noted, there is additional funding for new proposals in the final CR funding level. If this restrictive language had not been removed and we had cancelled the 1996 ATP competition, we would have had to face many justifiably upset entrepreneurs and medium-sized businesses who have invested major resources in forming consortia and in preparing grant proposals. The worst losers would have been the public which would miss out on some very promising technologies. I am very pleased we did not have to face that problem.

NIST ADVANCED TECHNOLOGY LABORATORY CONSTRUCTION

U.S. industry's ability to produce high quality products ranging from semiconductor to CAT scanners depends on the accuracy of primary measurements conducted at NIST. Universities and industries depend on new NIST measurement methods to overcome experimental obstacles with regards to the study of a plethora of scientific research such as materials science, advanced manufacturing, enzyme structures, to name a few. NIST's laboratories in Gaithersburg are now 30 years old and must be updated to improve and automate controls for temperature, dust levels, vibrations, and humidity. The factors are critical to accurate measurement required for precision national measurement standards. Standard-setting, which reaches across a vast range of affected industries, and is conducted in close cooperation with those industries, is clearly an appropriate governmental role, and has been so for over a century. Extremely precise standard-setting is crucial for industrial efficiencies and advances in a host of interdependent industries.

The administration requested $105 million for the construction of the NIST Advanced Technology Laboratory [ATL], which has been undergoing five years of extensive planning, research, design, and review. The Senate Appropriations Committee eliminated funding for building the urgently needed NIST ATL. Unfortunately, the Continuing Resolution did not correct this problem. I am concerned that unless this action is corrected next year, and this project moved ahead, there will be severe consequences for the future ability of NIST's laboratories to serve U.S. industry and science, halting in midstream a multi-year project that has garnered strong bipartisan and industrial support. If we allow this construction delay to prevail, the American taxpayer will ultimately pay a higher dollar, on the order of tens of millions of dollars, due to contract termination or suspension costs, costs for restarting the expert team, and inflation. These improvements cannot be delayed much longer and the price of delay is on the taxpayer.

NTIA GRANTS

I also note that the original Senate bill cut all funding for the Commerce National Telecommunications and Information Administration's [NTIA] Technology and Information Infrastructure Grants Program [TIIAP]. These programs serve an important purpose in connecting public schools, libraries and hospitals to state of the art telecommunication services and the Internet, through a highly competitive, cost-shared grant program. TIIAP programs demand high community involvement to be successful. The President's request of $59 million would have funded approximately 200 innovative telecommunication application projects and would leverage additional matching funds of over $100 million. To state it simply, an education system with out connections to the new information infrastructure is not a modern education system, and given the demands of a competitive global economy, we must make these connections. To end the NTIA grants would have been a serious error. I am pleased that the Continuing Resolution revisited this issue and restored $21.5 millon for this program.

To conclude, now is not the time to drop out of the global R&D race and shift toward a path of technology bankruptcy. I was concerned that the cuts in key technology programs originally proposed in the Senate Appropriations bill moved in this direction. I am very pleased that the Continuing Resolution corrected some of the worst problems in the Senate bill. Sen. HOLLINGS, who has long been an able leader in the Senate on technology issues, I know strongly shares these concerns. Again, I appreciate his efforts and the efforts of the administration and of Chairman HATFIELD in negotiating the improvements in this Continuing Resolution. Had the corrections not been made, I would have been concerned that the original bill could have started a process of throwing away tools that are key to building a better future and stronger economy for our country.

APPROPRIATIONS FOR DESALINATION RESEARCH AND DEVELOPMENT FOR FISCAL YEARS 1997 AND 1998

Mr. SIMON. Mr. President, I wish to express my disappointment that the omnibus appropriations bill for fiscal year 1997 does not include funding for research and development in the area of converting salt water to fresh water.

Although, with the assistance of the Senator from Nevada Mr. [REID], we did make a breakthrough in this Congress by passing legislation that authorizes funding for research and development into desalination, we failed to appropriate funds for this important research.

The United States was the world leader in desalination research during the 1960's, but Federal Government support was eliminated during the 1970's. It is vital that the United States again take the lead in desalination research and technology.

We are in a situation where, depending on whose estimates you believe, in

the next 45 to 60 years we will double the world's population. Our water supply, however, is constant. Clearly, we are headed toward major problems. The reality is the cost of fresh water is gradually going up, the cost of desalinating water is gradually coming down, but there is a gap that remains. That gap is going to hurt us unless we move in the area of research.

Converting salt water to fresh water is currently inexpensive enough for drinking purposes. Almost 90 percent of the water used in the world, however, is for industrial and agricultural purposes. Producing enough fresh water from saline water to grow crops and supply factories with water in arid parts of the world remains far too expensive.

In a report on desalination authorizing legislation, the Senate Committee on Environment and Public Works expressed the significance of desalination research and development, stating, "The United States should renew its commitment to developing this key technology and once again move the United States to the forefront of desalination technology and development."

Mr. President, the ability to efficiently convert salt water to fresh water is vital to the future of our country. It is vital to the future of civilization. For this reason, I am pleased that the Senator from Nevada will be taking the lead in assuring that funding for desalination research and development is included in any supplemental appropriations for fiscal year 1997, and in specific appropriations for fiscal year 1998.

Mr. REID. Mr. President, I would like to thank the Senator from Illinois for his leadership on this important issue.

I recognize the need for research and development and public investment in desalination technology. I am pleased to see that authorizing legislation was passed in this Congress for desalination research, and it was a pleasure to work with the Senator from Illinois as a cosponsor of his legislation. I will work to ensure that funds for desalination research and development are appropriated in the 105th Congress, through both supplemental appropriations for fiscal year 1997, and in appropriations for fiscal year 1998.

Ms. MOSELEY-BRAUN. Mr. President, I am delighted the Senate is prepared to act on and approve the pending omnibus appropriations bill for fiscal year 1997. I would like to commend the leaders of the Appropriations Committee, as well as the majority and minority leaders and the White House for their diligence in negotiating this compromise appropriations legislation. I am delighted that we have been able to put aside our differences and are prepared to pass a bill before the start of the next fiscal year.

This compromise stands in stark contrast to the acrimony and bitter partisanship that dominated the fiscal year 1996 budget and appropriations debate. I know that every one of my colleagues remembers the numerous continuing resolutions—many of them crafted by the Congress specifically to draw a Presidential veto—and the multiple shutdowns that closed parts of the Government for 27 days last year.

We have come a long way since last year's debate. We have come an especially long way in the area of education. The first budget documents considered by the 104th Congress contained unprecedented, extreme, and harmful cuts to education and job training programs.

The first budget and appropriations bills considered by this Congress proposed an $18 billion reduction in the Pell Grant Program, and a 40-percent reduction in the value of individual Pell grants. This Congress suggested $10.6 billion in student loan cuts, a tax on colleges and universities who participate in the student loan programs, and an interest-rate increase for parents who take out certain loans to help their children through college. This Congress tried to completely eliminate the successful and popular direct loan program, and the 6-month grace period before students must begin to repay loans after graduation.

Fortunately, none of these proposals became law. They would have increased the cost of higher education for nearly all of the millions of American students who are enrolled in colleges and universities with the help of financial assistance. This backtracking on the Federal Government's commitment to providing access to higher education would have come at exactly the time the cost of higher education was soaring to new heights. According to a study released by the General Accounting Office last month, the cost of public, 4-year colleges and universities has increased 234 percent over the last 15 years—nearly three times as much median household income.

Mr. President, we have come a long way for higher education since those early proposals. Instead of slashing the program and cutting the size of individual Pell grants, the bill before us today increases funding for the program by $1.3 billion, and raises the size of individual awards to $2,700. This bill increases funding for work-study programs by $213 million, providing about 960,000 jobs for low- and middle-income college students. This bill fully funds the direct loan program, allowing colleges and universities that choose to do so, to enroll in the program at will.

The first budget and appropriations bills considered by this Congress would have denied Head Start to 350,000 preschool children, cut 2 million children off of title I reading and math support, and cut back programs to keep schools safe and drug free for 39 million students. This Congress suggested that it would be appropriate to zero out Goals 2000, eliminate the National and Community Service Program, and eliminate summer jobs for millions of American students.

Fortunately, none of these proposals became law either—and for the first time since the start of the 104th Congress, the Senate is about to approve a measure that increases funding for Head Start, fully funds the title I program and fully funds Goals 2000. For the first time in 2 years, this Congress is poised to make progress toward improving the quality of, and expanding access to, educational opportunities for all Americans.

I am especially pleased with the increase in funding for education technology. This bill increases funding for education technology by nearly 400 percent over last year, to a record-high $305 million. These funds will help States leverage additional funding to wire schools, connect them to the Internet, train teachers, and provide all of our children with a 21st century education.

We have indeed come a long way, and the legislation before us today represents a dramatic improvement over proposals initially considered by this Congress. There is still much work to be done.

According to the General Accounting Office, decades of neglect of the facilities themselves has resulted in $112 billion worth of needed repair, maintenance, and construction, just to bring them up to good, overall condition. This price tag does not include the cost of wiring our schools for computers and other information technology that our children must learn in order to remain competitive in the 21st century.

The $112 billion price tag does not include the cost of expanding facilities to meet the needs of climbing enrollment. The Department of Education reports that this year's enrollment is the highest ever, and the number of children enrolling in school will continue to climb for the next decade. Next year, I will introduce legislation that will help school districts leverage funds to repair, upgrade, and modernize their facilities so our schools may serve our children in the 21st century.

I also intend to examine the increasing unaffordability of college next year when Congress reauthorizes many of the higher education programs. At precisely the time when college is more important to opportunity than ever before, we cannot afford to price an increasing number of middle-class Americans out of a higher education.

Mr. President, the 104th Congress has not been friendly to education. Bill after bill has proposed slashing education funding and limiting opportunity for millions of American students. I am very pleased that for the first time the legislation before us today takes a different tact, expanding educational opportunities.

I look forward to working with my colleagues in the 105th Congress to continue to improve the quality of education for all Americans.

PRIVATIZING CONNIE LEE

Mr. DODD. Mr. President, I am pleased to rise today in support of my legislation, included in the continuing resolution, to privatize the College Construction Loan Insurance Association, better known as Connie Lee.

For 10 years now, I have focused a great deal of attention and effort on Connie Lee legislation. I was there at its birth in 1986 as the author of the legislation creating Connie Lee, which passed as a part of the Higher Education Act amendments. And, today, as this legislation privatizing Connie Lee passes, I feel like a parent watching a child graduate from college to head out on her own.

Connie Lee was created with a vital and focused mission—to assist colleges in the repair, modernization and construction of their facilities. Like many institutions, colleges and universities need multi year financing to keep up with their construction and renovation needs. For institutions with strong financial backing and large endowments, issuing bonds and securing capital has not been a major problem. Institutions that are less secure and have a lower bond rating, however, face major obstacles in obtaining the necessary financing.

It was clear to us in 1986 that we, as a nation, have a major stake in assuring that our higher education institutions sit on a strong foundation—both literally and figuratively. Connie Lee was created to address this need and, since its incorporation in 1987, it has provided increased access to the bond markets for more than 100 needy institutions through bond insurance. Connie Lee has insured bond issues totaling over $2.5 billion and has assisted institutions such as the University of Denver, the University of Massachusetts Medical School, community colleges, and numerous other institutions in nearly every State.

With its significant record, Connie Lee has clearly proven its maturity and strength. Since its founding, Connie Lee has maintained its triple-A financial rating, and a recent Standard and Poor's report confirmed its strong financial position. The initial Federal investment of $19 million has clearly worked to form a strong and vibrant company, ready to sever its ties and fully privatize.

The privatization language included in this bill is quite straightforward and very similar to the administration's privatization bill, which I introduced last June. It repeals the section of the Higher Education Act that authorized the creation of Connie Lee and governs its activities. In addition, it requires that the Secretary of the Treasury sell the Federal Government's 15-percent share in Connie Lee within the next few months.

Mr. President, as simple as it sounds, this legislation is the product of a great deal of work. I would first like to thank my colleague from Vermont, Senator JEFFORDS, who has been an incredible partner in this effort. I would also like to acknowledge the assistance of the Departments of Treasury and Education, the staff of Connie Lee, and those in the private sector, who with their broad experience provided invaluable assistance in putting this bill together.

In an era when we hear so much about bad government, Connie Lee is an excellent example of how government can and does work well. With a modest Federal investment, Connie Lee has grown to be a dynamo in helping colleges repair their aging facility just as we had hoped in 1986. Connie Lee will continue this work, but no longer needs our venture capital. With this legislation, the Federal Government will sell its shares and recoup a good cash return on its original investment.

Mr. President, this is good legislation and I look forward to its passage as part of the larger continuing resolution.

SECTION 208

Mrs. MURRAY. Mr. President, the omnibus appropriations bill contains a provision in the Commerce, State, Justice appropriations area that needs clarification. Section 208 prevents the administration and councils from using funds to implement any individual fishing quota [IFQ] programs until fees are expressly authorized for such programs under the Magnuson Fishery Conservation and Management Act. This fee authority recently passed both the House and Senate and will soon be signed into law by the President, but there is some confusion about the implication of this appropriations provision on a particular IFQ program designed to regulate bycatch.

Section 118 of the Sustainable Fisheries Act amends section 313 of the Magnuson Act to provide authority for the North Pacific Fishery Management Council to establish a Vessel Bycatch Accountability [VBA] program under section 313(g)(2). As Senator STEVENS made clear during debate on the Sustainable Fisheries Act, the authority to collect a fee under section 304(d)(2)(A)(i) of the Magnuson Act for actual costs directly related to the management and enforcement of IFQ programs applies as well to any VBA program created under section 313(g)(2). Therefore, the express authorization of fees for a VBA program is contained within the express authorization of IFQ fees in section 304(d)(2)(A)(i), except that, as Senator STEVENS mentioned during the debate, the fees in the VBA fishery should not exceed one percent of the annual ex-vessel value of the target fish in the fishery.

It is therefore clear that once the Sustainable Fisheries Act has been enacted, section 208 will no longer apply to the VBA program I have described. It will in no way prevent the Council from developing and the Secretary from approving and implementing a VBA program, consistent with the requirements of section 313(g)(2) and other provisions of the Magnuson Act.

Mr. STEVENS. I concur with the Senator from Washington. The express authorization of fees in the Magnuson Act to pay for the costs of administering plans, amendments and regulations that include IFQ programs results in the repeal of section 208. Because the VBA program that Senator MURRAY has described fits within the definition of an IFQ, upon enactment of the Sustainable Fisheries Act, the moratorium in section 208 will no longer be applicable to the VBA program.

As I mentioned in my discussion with Senator MURRAY about section 208, the Sustainable Fisheries Act's express authorization of fees to pay for the costs of administering plans, amendments and regulations that create IFQ programs results in a repeal of section 208. Once the President signs the Sustainable Fisheries Act, section 208 will be completely repealed.

Mr. SHELBY. Mr. President, I want to congratulate the chairman for reporting out a bill that provides funding for many important programs, while at the same time moving toward our goal of balancing the budget. Of particular interest to me, this bill funds the activities of the Federal Communications Commission which is currently undertaking the important task of implementing the historic Telecommunications Act of 1996.

Mr. President, I would like to raise a concern that many of us have relating to the FCC's implementation of the act, and I would therefore ask the indulgence of the chairman of the Appropriations Subcommittee to allow me to enter into a colloquy with the chairman of the authorizing committee, the Committee on Commerce, Science and Transportation.

Mr. SHELBY. I thank the chairman. In addition to advocating a regulatory framework that encourages and promotes competition in the telecommunications industry, I have been particularly concerned that small and entrepreneurial firms are allowed to compete on a level playing field in all industry sectors in the United States and global economies. Indeed, with passage of the Telecommunications Act, Congress sought to provide opportunities for small businesses to participate in the telecommunications industry while also moving the entire industry toward a more competitive framework overall. Section 257 of the Act directs the FCC to "identify and eliminate

* * * market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services. * * *''

Mr. President, this is very clear and precise language and should leave no question as to the intent of Congress on matters relating to small businesses. Nevertheless, it has come to my attention that the FCC, in two recent rulemaking decisions relating to new satellite services, has adopted stringent financial standards, the practical effect of which is to erect market entry barriers to telecommunications ownership by entrepreneurs, small businesses and similar entities.

Under the Commission's strict financial standard, applicants are required to demonstrate financial qualifications either on the basis of a corporate balance sheet or alternatively, on the basis of fully negotiated, irrevocable funding commitments from outside sources. This standard unfairly favors large corporations who may submit a balance sheet as part of their licensing application, regardless of whether the funds reflected on paper are actually committed to the project and even though the corporate giant, like its smaller competitors, will likely turn to external financiers and investors to ultimately fund its system. In fact, the award of all satellite licenses in one of the proceedings I refer to have gone to large corporations. In contrast, applications from small entrepreneurial companies have been deferred because they have been held to the stricter test requiring proof that funds have been irrevocably committed by others on behalf of their entire project. This is a very high hurdle to clear.

Although numerous small businesses, as well as the Small Business Administration and a number of U.S. Senators and Congressmen, have raised concerns about these strict financial standards with the FCC, we have received no adequate response from the FCC, nor has the Commission modified its policy in this area.

To the distinguished chairman of the Commerce Committee I ask: Was it the intent of Congress with passage of the Telecommunications Act of 1996 to encourage the FCC to ease the regulatory framework and encourage competition in the telecommunications industry? And, further, was it the intent of Congress that regulations that act as market entry barriers to small and entrepreneurial businesses be identified and eliminated as soon as possible?

Mr. PRESSLER. The Senator is correct. The primary thrust of the historic act was to ensure increased competition in the telecommunications industry by scaling back regulations and allowing free market forces to operate in this area. The Senator is also correct in noting that section 257 of the act specifically directs the Commission to identify and dismantle impediments to small business ownership and provision of telecommunications services.

Mr. SHELBY. Thank you very much, Mr. Chairman. Any may I then ask: Is it true that section 257 of the Telecommunications Act, which ensures that small businesses are not unfairly disadvantaged by Federal regulations, was supported by both parties?

Mr. PRESSLER. The Senator is correct. This provision, which originated in the other body, was agreed to on a bipartisan basis. Section 257 directs the Commission to develop meaningful opportunities for small businesses to participate in the ownership and provision of telecommunications services. This language applies to all Commission activities in the area of telecommunications. It does not make exception for activities such as the application of financial qualification standards.

Mr. SHELBY. Mr. President, I have one final question for the chairman of the Commerce Committee for purposes of clarifying that the intent of Congress with the Telecommunications Act is to ensure that the marketplace, not the U.S. Government or a regulatory body, decides who the winners and losers in this industry will be. In the case of the strict financial standard imposed by the FCC for satellite system applicants, it seems to me that rather than making a judgment on what the FCC may feel is a company's financial ability to compete, perhaps the FCC should focus more on technical considerations for licenses, leaving the ultimate success or failure of an applicant to the marketplace where it appropriately belongs. Will the chairman continue to work with me and others to ensure that the FCC implements the law according to our intent, particularly as this relates to small and entrepreneurial ventures and financial standards applicable to these important participants?

Mr. PRESSLER. I can assure my colleagues that the Commerce Committee will closely follow actions taken by the Commission in areas such as satellite licensing to ensure that the intent of Congress is carried out. Congress must ensure that the FCC's actions are complementary, not contrary, to the forces of the free market and open competition.

Mr. SHELBY: I thank the chairman of the Commerce Committee for all the work he has undertaken to ensure the American people have access to services which are developed in a free and open marketplace, and I thank the chairman of the Appropriations Committee for permitting our discussion of this most important and timely issue.

WHITEFISH POINT LIGHTHOUSE LAND CONVEYANCE

Mr. ABRAHAM. Mr. President, I rise to address the inadvertent omission of important report language relating to the transfer of the lighthouse at Whitefish Point, MI, from the Coast Guard Authorization Act of 1996.

Built in 1849, the lighthouse at Whitefish Point was Lake Superior's first lighthouse. As I am sure my colleague from Michigan, and anyone else familiar with the perils of maritime transport on Lake Superior will tell you, in its 15 decades of operation the lighthouse has undoubtedly saved hundreds of lives.

In response to the present need to justify budgets, the U.S. Coast Guard, working to meet its numerous national priorities, decided to permit the transfer of ownership to responsible parties. Several organizations stepped forward, and this legislation makes possible the transfer of this historical site to three interested parties: the Great Lakes Shipwreck Historical Society, the U.S. Fish and Wildlife Service, and the Michigan Audubon Society.

Disagreements arose between the interested parties over the ability to construct or expand facilities at the site. As a conferee to the Coast Guard reauthorization, I developed a clarifying clause to be included in the conference report to accompany the bill to try and put this dispute to rest. This language represented an agreement between Representative STUPAK and myself, and it struck a reasonable compromise between the concerned parties. Regrettably, this language was not included in the final report as we had come to expect. The aforementioned clause was as follows: "Nothing in this section is to be interpreted as exempting development of the land conveyed under this section from applicable Federal, State or Local laws."

Mr. President, this is a matter that is important to many people in the State of Michigan. It troubles me this language did not make it into the conference report.

Mr. STEVENS. Mr. President, I regret that the language requested by the Senator from Michigan was not included in the report language. I wish to assure Senator ABRAHAM and Senator LEVIN that this was due to an administrative oversight. It was the Senate's intent that this language be included in the conference report, and to my knowledge, there was no objection in the House.

Mr. ABRAHAM. Mr. President, I thank the distinguished subcommittee chairman and the ranking member for their consideration and all their hard work. Their help will ensure that transfer of this property takes place smoothly and it will allow the concerned organizations to focus their attention and resources toward preserving this rich historical site.

Mr. LEVIN. Mr. President, I also wish to thank the Senator from Alaska for his willingness to address this matter. And, I appreciate my colleague from Michigan's efforts to move these transfers and to clarify the intent of Congress regarding the Whitefish Point transfer. There are important historical preservation and environmental

protection issues that must be carefully considered regarding this sensitive property and any development that occurs there.

PESTICIDE DATA PROGRAM

Mr. LEAHY. Mr. President, I would like to engage the Senator from Iowa, Mr. HARKIN, the ranking member of the Senate Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, Mr. BUMPERS, the chairman of the VA-HUD Subcommittee, Mr. BOND, and other Senators in a discussion relating to the Pesticide Data Program.

It is my understanding that the new pesticide legislation requires more complete and thorough pesticide residue data collection. Because of the sequence of passage of the Agriculture Appropriations Act and the Food Quality Protection Act, the Pesticide Data Program, essential to collecting pesticide residue data, had been left without funding. Would the Senator from Iowa agree with this assessment?

Mr. HARKIN. The Senator from Vermont is correct. The Pesticide Data Program, which has been carried out by the Department of Agriculture since 1991, has a proven record of collecting data that is critical to the proper functioning of our pesticide and food safety laws—from the perspectives of both consumers and agricultural producers. It should be noted that this program involves contractual agreements with the States that are separate from the existing cooperative agreements for pesticide enforcement and educational programs between EPA and the States.

The program is specifically designed to collect reliable data regarding pesticide residues on food as those foods are consumed. This data benefits consumers—and particularly infants and children—because regulatory decisions can be based on more accurate assessments of the risks associated with pesticide residues in foods. The data is likewise beneficial to agricultural producers. Using reliable residue data, and more accurate assessments of risk associated with the use of products, may allow some pesticides to remain in use that would otherwise have to be withdrawn, since without the data EPA would have to assume a higher theoretical level of risk from use of a pesticide than is really the case.

The Pesticide Data Program has taken on even more importance with enactment of the landmark Food Quality Protection Act, which mandates collection of the type of data collected in the Pesticide Data Program and depends upon accurate pesticide residue data to work as Congress intended. A critical problem arose, though, since no money had been appropriated for the Pesticide Data Program in the previously enacted agriculture appropriations measure for fiscal 1997.

Fortunately, the lack of funding has been taken care of in this continuing resolution, but I am concerned about the implications of providing the money to EPA rather than to USDA, which has extensive experience and a solid record of success in carrying out the Pesticide Data Program.

Mr. BUMPERS. I thank the Senator for the opportunity to explain the events that have led to this program being transferred to the VA/HUD Subcommittee. This program was previously funded by the Subcommittee on Agriculture, Rural Development, and Related Agencies and administered by the Agricultural Marketing Service through contractual agreements to several States for residue testing and information collection in the field. Although the Senate bill for fiscal year 1997 USDA spending contained this funding, it was dropped in conference at the insistence of the House. It was the sense of the House conferees that since the program was largely designed to assist the Environmental Protection Agency in the reregistration of pesticides, the program would be more appropriately funded through EPA.

Following passage of the fiscal year 1997 Agriculture, Rural Development and Related Agencies Appropriation Act, Congress enacted the Food Quality Protection Act. The Food Quality Protection Act modified the tolerance-setting process and made the availability of actual pesticide residue information more critical than before. During negotiations on the continuing resolution, the question was again raised as to the appropriate agency to implement this program. In an agreement reached with the House and Senate leadership, and the administration, it was decided to fund this program through the Environmental Protection Agency for fiscal year 1997.

Mrs. MURRAY. Can the Senator from Missouri explain what effect this change will have on the collection of residue data?

Mr. BOND. This change should have little effect on the collection of residue data. As the Senator from Arkansas explained, the collection of pesticide residue data is achieved through contractual agreements with a number of States. This process will continue. The only difference will be that the funding for fiscal year 1997 will flow through the Environmental Protection Agency rather than the Agricultural Marketing Service. This 1-year approach will allow a more timely distribution of funds to the States than would otherwise occur if they first had to be transferred to USDA.

Mr. LUGAR. I notice the statement of managers also contends that while the program will be managed by the Environmental Protection Agency during the initial stages of implementing the Food Quality Protection Act, that future funding should be provided by a more appropriate Federal agency. I might point out that section 301(c) of the Food Quality Protection Act mandates that the Secretary of Agriculture ensure the residue data collection activities are carried out in cooperation with the Environmental Protection Agency and the Department of health and Human Services. Would it be the understanding of the Senator from Arkansas and the Senator from Missouri that coordination should continue between the Environmental Protection Agency and the Agricultural Marketing Service to determine how best to manage this program in the future in light of the recent passage of the Food Quality Protection Act?

Mr. BUMPERS. While the Statement of Managers does indicate that transfers to other Federal agencies should not occur in fiscal year 1997, I agree with the Senator from Missouri that this was in order to distribute funds more efficiently to the participant States. The Food Quality Protection Act has only been signed into law a few weeks and we do not yet fully know the extent to which it will enhance the need for the information provided by the Pesticide Data Program.

I certainly expect the Department of Agriculture to explain fully its views of how best to proceed with this program in hearings before our subcommittee next spring. With the expectation that Congress will determine the collection of this information is imperative due to the changes in the pesticide registration laws, I would hope that the Environmental Protection Agency and the Agricultural Marketing Service continue to coordinate efforts and work together. I would further expect that fiscal year 1997 funds not be restricted in such a way as to make this coordination difficult. If, as suggested in the Statement of Managers, there is a more appropriate Federal agency than the Environmental Protection Agency to implement this program, that Federal agency should be allowed to work with the Environmental Protection Agency and leave the final decision for fiscal year 1998 to the Appropriations Committees of the House and Senate.

Mr. BOND. I agree with the views of the Senator from Arkansas.

GUN FREE SCHOOL ZONES ACT

Mr. KOHL. Mr. President, today we enact the Gun Free School Zones Act, a measure designed to undo the damage done by Supreme Court's decision in United States versus Lopez. In that 1995 decision, the Supreme Court by a slim 5 to 4 margin struck down an earlier version of this legislation, holding that it exceeded Congress' commerce clause power in the Constitution.

Today we address the Supreme Court's concerns. We do not defy them. Yet we do not let their easily addressable concerns stop us from doing what is right—doing everything we can to stop the violence in our schools. The Gun-Free School Zones Act is a commonsense, bipartisan, constitutional

approach to combating violence in our schools. It bars bringing a gun within 1,000 feet of a school, with a few commonsense exceptions. We also now require in this new version that in each prosecution the Government prove that the gun "moved in or * * * otherwise affected interstate commerce." This is the only change between the prior law and this new law.

We enact this measure under our commerce clause authority. We have held hearings on it, and we have heard from prosecutors, law professors, teachers, and policemen. They all tell us that interstate commerce is what is causing the problem of gun violence in schools. The problem of school violence is a national one that begs for national attention. Anyone who argues that the problem is an exclusively intrastate problem is not looking at the evidence. Interstate commerce is creating this problem.

Sometimes these guns get into children's hands through the efforts of nationwide gangs. One 14-year-old Madison, WI gang member told the Wisconsin State Journal that the older leaders of his gang brought carloads of guns from Chicago to the younger gang members. The Boston police recently discovered that all of the handguns being bought by gang members in one neighborhood came from Mississippi. The young man who was running guns up to Boston was arrested and shootings in the neighborhood dropped more than 60 percent, from 91 to 20. And in New York, Federal agents traced 4,000 guns seized there to a single store in Alabama.

The unchecked proliferation of guns and their delivery into the hands of school-aged children is national in scope. The raw materials for guns are mined in one State, are turned into guns in another State, and are put into a child's hands in another State. The gangs that arm these children and encourage them to bring guns to school operate across State lines.

These guns have infiltrated our school system and created a national crisis. A Lou Harris survey this year found that one in eight youths—two in five in high-crime neighborhoods—reported having carried a gun for protection. One in nine said they had stayed away from school because of fear of violence. That number jumped to one in three in high crime neighborhoods.

The effects of guns in schools stretches across this Nation. Schools and districts with particularly bad gun problems sink deeper and deeper into despair. They have difficulty procuring Federal aid or grants from national foundations. People will not move from out-of-state to that school area because they do not want their children in dangerous schools. Businesses will not relocate or establish themselves in areas with dangerous school zones.

Finally, and perhaps most tragically, the children in those schools are prevented from learning their ABC's. All they learn is to live in terror. Children from Maine to Wisconsin to Alabama to Oregon go to school in fear—fear that they may be shot, that their school day will consist of nothing but dodging from one perilously dangerous situation to another. These children cannot learn and the educational system cannot teach. Our national economy is crippled.

The Federal Government has a role to play in combating this national problem. We must put the full weight and investigative abilities of the Federal Government behind the drive to keep guns out of school. No State should be forced to stand alone in confronting this problem.

Although many States have their own laws, we need a Federal law for two reasons: first, many of these State laws are inadequate; and second, a Federal law will serve as a critical support and backup system for State law enforcement officials.

But before dealing with these reasons, I want to point out that the measure we pass today will not hamper, preempt, or harm the enforcement of those laws in any way whatsoever.

Although State laws can help address this national problem, not every State has a law. And not every State law is adequately drafted to do the job. Moreover, in many of these States, people do not serve any time for violating the law. In Federal cases, they do. With a Federal law, we can fill in loopholes and put violators behind bars for up to 5 years. In short, the Gun-Free School Zones Act gives prosecutors the flexibility to bring violators to justice under either State or Federal statutes, whichever is appropriate—or tougher.

Some States do not have laws which deal with guns in schoolyards. In addition, of the forty-plus States that have laws, almost half of them simply make it a misdemeanor to bring a gun into school. Unfortunately, that has almost no effect on a juvenile who knows that a juvenile misdemeanor record is virtually meaningless. A stiff Federal penalty means a lot more.

Some of the States also have weak laws. Take, for example, Alabama. Alabama requires that the person charged have brought the gun to school with intent to do bodily harm. So you can bring a gun to school, disrupt and frighten all of the students but still get off because you did not intend to actually shoot anyone. That is unacceptable. Alabama's statute also only applies to guns on public school grounds. Private schools are uncovered, so anyone can walk into a parochial or private school with a gun and without a fear of prosecution.

And there is still another reason why a Federal law is needed. We need Federal and State cooperation to deal with this problem. The States need our help. Sometimes they are overwhelmed and need backup. Other times, they want to use stiffer Federal penalties. This Gun-Free School Zones Act will not preempt a single State law. And after decades of dealing with complimentary Federal-State laws, good State and Federal prosecutors know how to coordinate their efforts—and Federal prosecutors know to step aside when the State has a stiffer law. Just ask Bob Wortham, the former Texas U.S. attorney nominated by Senator GRAMM. Mr. Wortham prosecuted more people under the Gun-Free School Zones Act than anyone else. And he did it while getting rave reviews from State police, prosecutors, and teachers. This act is a modest but useful measure that surely cannot threaten our State governments.

You will not hear State officials complaining about meddling Federal officials. Instead, State officials welcome Federal assistance in this area. The Gun-Free School Zones Act assures a Federal-State joint venture.

Mr. President, our measure is clearly constitutional. The original Gun-Free School Zones Act was struck down in United States versus Lopez. But in drafting this proposal, we consulted with the Justice Department and a variety of legal experts who carefully scrutinized this bill and concluded it would easily pass the Lopez test.

In fact, the very provision that has been inserted into the bill to make it constitutional was suggested by a section in the Chief Justice's opinion in Lopez. In a portion of that opinion, the Chief Justice noted that if the law "contain[ed] * * * [a] jurisdictional element which would ensure, through case-by-case inquiry, that the firearm possession in question affects interstate commerce, then the law would probably be constitutional.

By requiring an explicit connection with or effect on interstate commerce, as our new law will require, Congress will be clearly regulating interstate commerce pursuant to its constitutional commerce clause power. There are many known instances of gangs traveling to other States to equip themselves with guns which they then bring into schools. That is what this bill seeks to regulate: the travel of guns through interstate commerce to our schoolhouse steps.

This measure does not, as a few opponents have argued, pave the way to Federal regulation of State education. Education is first and last the business of the State governments, and so it will remain. This law does not get the Federal Government in the business of regulating schools. It simply keeps the Government in the business of controlling the interstate commerce in guns. Since this bill rests on the Federal Government's power to regulate interstate gun commerce, it cannot be used to justify Federal regulation of State education.

It does not make much sense to treat a modest and sensible proposal as a major threat to the Federal-State balance. Our Founding Fathers were concerned with common sense, not with alarmist predictions about the fate of Federal-State relations.

Mr. President, no one claims that our legislation is a panacea. No one claims that the violence will go away if we pass it, just as the violence did not go away when the original law was passed. But a Federal law can help. The Federal Government can step in and assist State prosecutors when they do not have the resources they need. The Federal Government can take on particularly bad offenders who will receive stiffer penalties in a Federal prosecution. Today, we have lived up to our obligation to help.

Mr. LOTT. Mr. President, I do not want to delay the vote very much because I know there are a number of commitments involved. I am prepared to use some leader time to wrap up if the former chairman and the ranking member would like to go first.

Mr. BYRD. Mr. President, I have about 3 minutes. I wish to take just a few minutes to commend the work of several key people. I commend the House Democratic leader, Mr. GEPHARDT, who played a very important role in the negotiations that took place during last week. He led the House and Senate Democrats in that historic budget agreement in 1990, and proved himself to be very knowledgeable and capable in matters of the Federal budget and, again, confirmed my judgment of his capabilities.

In addition, Mr. President, I applaud the efforts of the Speaker of the House, Mr. GINGRICH. Congressman GINGRICH is one of the most interesting personalities that has appeared on the political stage in the last quarter century, and his participation in the negotiating process was key to the success of this agreement.

On the Senate side, the tireless work of our two leaders is also to be commended. For the Democrats, Senator DASCHLE has proved to be a very effective minority leader. As a former leader, I know well the difficult tasks he faces in leading the Senate Democrats, but he has been diligent in his efforts to protect Senators' interests while at the same time trying to reach consensus as the Senate seeks to complete its work.

The Republican leader, Senator LOTT, since assuming his responsibilities upon the departure of Senator Dole, has carried out his responsibilities very capably.

He has worked well with the minority leader and Senators on both sides of the aisle in moving the Senate's business, and particularly in relation to the resolution just agreed to, he was deeply involved and most helpful in reaching this agreement. Several thorny issues were presented to the Senate majority leader and to the other leaders for their final resolution. And they comported themselves admirably and well.

I commend all of the staff who were involved in this very difficult negotiations on this omnibus appropriation bill. For the majority leader, David Hoppe, and for the minority leader, Larry Stein, were involved at every stage of the process and helped resolve many difficult issues as they arose. I also commend the full committee staff of the Appropriations Committee for their tireless efforts and dedicated work: Keith Kennedy, Mark Van de Water, and Dona Pate for the majority and Jim English, Terry Sauvain, Dick D'Amato, and Mary Dewald for the minority, as well as my chief of staff Barbara Videnieks. Most especially, Mr. President, I congratulate and thank the professional staff on both sides of the aisle of each subcommittee, without whom we would not have been able to have reached this agreement as successfully and effectively as we have. As I have said many times in the past, the staff of the Senate Appropriations Committee is one of the finest staff on Capitol Hill, and they have proved themselves so to be, once again, throughout this entire session and, in particular, during the last week.

Last, Mr. President, I note with regret that this is the last appropriation bill to be managed by the very able and distinguished Senator from Oregon, my colleague and friend, Senator HATFIELD. He is a most remarkable public servant, and a man of great integrity and independence, who has always striven throughout his public career to do what is right for the people of the State of Oregon and the Nation, rather than what may be politically popular at any given point in time. I compliment MARK HATFIELD on an outstanding Senate career and, particularly, for his outstanding service on the Appropriations Committee and for the extraordinary manner in which he has led that committee during his 8 years as its chairman.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I, too, want to take just a few moments to thank a few people who worked to achieve this final product.

It is unlike any appropriations bill I ever saw. It may not be perfect, but this one is large. It has been involved in a long process.

I think the result is good, and we are going to get our work done. There is not going to be the threat of having to go with the extra continuing resolutions, dragging it out, and the threats of potential Government shutdowns or any of that sort of thing. We got the work done. That is a very important feature.

I want to say that it could not have happened without the extraordinary leadership, the calmness, the demeanor, and the knowledge of the chairman of the committee, Senator MARK HATFIELD. This is, obviously, the last appropriations bill he will handle in his career. I have said this about him before, but I think it is certainly true here tonight. He has certainly fought the good fight, he has finished the race with this monumental achievement here, and he has kept the faith with himself, his constituents, and with the Senate. I thank you very much for the great work that you have done on this bill and some other bills, Mr. Chairman.

Also, to the ranking member, Senator BYRD. I have found that he has always unfailingly been available, cooperative, and helpful in this and all matters. He is in many ways the conscience of the Senate. He reminds us of things we need to do and the way we should act, and he knows so much about what is in this bill, as in every bill. We appreciate the very fine cooperation from the ranking member of the Appropriations Committee.

And to the very fine staff—Keith Kennedy, Jim English. It just wouldn't have been possible without all the many long hours that they have put in. They have to be exhausted. I don't know how many nights they went without much sleep, or any sleep. I know that sort of thing has happened before, but I have never seen it to the degree that I have this time up close. They did great work, and we thank you very much for that work.

I just have to mention the subcommittee chairman and ranking member who worked so hard. They have had to make compromises, and they are not very happy with some of it. But the chairman of the Subcommittee on Commerce, Justice, and State, Senator JUDD GREGG, and the ranking member, Senator FRITZ HOLLINGS, and the chairman of the Subcommittee on Defense, TED STEVENS, did a great job.

This is one of the best parts of this whole effort, in my opinion. The defense bill provides what is needed for the defense of our country. TED STEVENS really stayed with it, and, also, of course, his partner in managing this legislation, the Senator from Hawaii, Senator INOUYE.

Senator MITCH MCCONNELL on the Foreign Operations Subcommittee had two of the thorniest issues of all to work out. Yet, we came to an agreement with regard to the funding and with regard to the language concerning the Mexico City issue. Without Senator MCCONNELL's efforts and without the long hours, it would not have happened; and the ranking member there, Senator PAT LEAHY.

The Interior Committee, Senator SLADE GORTON and the distinguished

Senator from West Virginia had a very important part in getting that package together. There was a lot of language that was controversial there.

Senator SPECTER and Senator HARKIN on the very large subcommittee portion—Labor, Health and Human Services.

And, finally, the Treasury-Postal Service, Senator SHELBY and Senator KERREY. Senator SHELBY was there with us at about 1 a.m. on Saturday morning because there were some unresolved issues.

There are many members of my own staff that I would like to have their names put in the RECORD because of the long hours that they put into working with different sections of this bill: My chief of staff, David Hoppe, and Alison Carroll, my deputy chief of staff, who is here with me today. Also, Bill Gribbin, Susan Connell, Mike Solon, Susan Irby, Randy Scheunemann, Rolf Lundberg, and Kyle McSlarrow.

I emphasize this point: We came to an agreement. We have a very large bill to keep the Government operating. We did add $6.5 billion more than what had come out of committees, but it was paid for.

We had some very important additions that were put in because of disasters, particularly the effort that we made to provide assistance in the Western States and for the damage from Hurricane Fran. We added $350 million to amounts already appropriated, guaranteeing at least $500 million would be available for relief of victims of Hurricane Fran. That is thanks to Senator HELMS, because he knew what the people of North Carolina needed and what would be necessary to repair the damage from that tremendous storm.

When you go through the places where additions were made, many of them are the right things to do to stand up for what should be done for this country.

For the National Institutes of Health, we provided a total of $12.7 billion, which is over the President's request.

A variety of education programs, including Head Start and the Safe and Drug-Free Schools program had increases.

Title I is now at $7.7 billion.

We added additional funding for college education, for loans and for grants.

We added additional funding to the Justice Department to implement the Violence Against Women Act and programs to fight crime.

When you go through this list, there are many, many programs where the additions will serve the American people well. It is the right thing to do. I am pleased to be able to support this legislation.

I think it has the right mood about it, the right tone about it, and it has been bipartisan. It will, I think, serve us well as we go into the session next year.

Mr. President, I am inclined to look upon this legislation, H.R. 4278, the omnibus consolidated appropriations bill, like an expected father who is suddenly presented with quadruplets. It is an awful lot to take at one time.

And yet, the more familiar you become with the enormous package, the more there is to like.

First and most important, we accomplished what the American people wanted us to do: We avoided a fiscal crisis that would have led to a government shutdown at midnight tonight.

For the record, I have to note that it would have been far preferable if we had passed the various appropriation bills one by one, instead of in this huge and unwieldy package. But what was not to be.

We all know what happened to many of those bills here in the Senate, and why I had to take them down, and why it was pointless for me to even bring up some of them. All that we can leave to the historians of the Congress.

What is now before us is a bipartisan package, worked out in long—very long—face-to-face deliberations between the Republican leadership of the House and Senate and senior administration officials.

If I attempted to individually name all those who played crucial roles in its development, I might be mistaken for a Senator filibustering the FAA bill. So I will note particularly Chairman MARK HATFIELD's diligent pursuit of an acceptable outcome, knowing that he will share the credit with the other members of his committee who worked, sometimes through the night, to get this work done and well done.

Enormous as this legislation is—it spends some $600 billion, including $6.5 billion more than congressional Republicans had originally planned to spend—it is deficit neutral. It is paid for. We refused to add to the Nation's debt.

Working within that understanding, we managed to devote almost $1 billion to the fight against terrorism. We came up with $8.8 billion to combat drug abuse and the drug traffic. We allotted $650 million for fire emergencies in our western States.

And because of the relentless efforts of Senator HELMS, we added $350 million to amounts already appropriated, guaranteeing that at least $500 million will be available for relief of victims of hurricane Fran. Thanks to Senator HELMS, the people of North Carolina will have to resources to rebuild from the storm, especially in the hard-hit city of Raleigh.

For the National Institutes of Health, we provided a total of $12.7 billion—almost $400 million over the President's request.

A variety of education programs also fared well in this legislation. The Head-start program is now up to almost $4 billion. The Safe and Drug-Free Schools program is at $556 million. Title 1, our basic program of aid to schools with large numbers of poor children, now stands at $7.7 billion.

Student aid at the college level has dramatically increased by $3.3 billion to a total, in both grants and loans, of $41.6 billion. The annual Pell Grant will have its largest one-year increase ever, to a maximum of $2,700.

This is more than just a spending bill, however. It is an important anticrime bill. That is why we directed resources to the Department of Justice, with special attention to implementing the Violence Against Women Act.

Mr. President, the American people did not want us to adjourn for the year without tackling the problem of illegal immigration. This bill is our tough answer to that demand.

It tightens border enforcement by doubling the border patrol and authorizing a triple fence barrier along our southern border. It cracks down on alien smuggling. It will speed up the exclusion and deportation of illegal aliens, and it funds 2,700 detention cells. By the way, that's 2,000 more than the President wanted.

This bill includes our entire Defense appropriation, the foundation of our national security effort. And it includes funding for the international activities which are essential for the continuance of what we have won at such great cost: peace through strength.

It is not a perfect bill. But in all my years in the House and Senate, I have never yet seen a perfect appropriation bill. It is, however, a good bill, thoughtfully constructed and prudently funded. It is a necessary bill, which the American people expect us to pass without delay.

With pride in what we have accomplished, and with relief in what we have avoided, I urge all my colleagues to support this legislation.

Mr. President, I urge my colleagues to vote for this legislation.

I yield the floor, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill (H.R. 4278) was ordered to a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

The result was announced—yeas 84, nays 15, as follows:

[Rollcall Vote No. 302 Leg.]

YEAS—84

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

NAYS—15

Ashcroft	Feingold	Inhofe
Brown	Frahm	Kyl
Burns	Gramm	McCain
Coats	Grams	Specter
Faircloth	Gregg	Thomas

NOT VOTING—1

Campbell

The bill (H.R. 4278) was passed.

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

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

The motion to lay on the table was agreed to.

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the conference report to accompany H.R. 3610.

The report will be stated.

The clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3610) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, 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 28, 1996.)

Mr. INOUYE. Mr. President, I want to take this opportunity to discuss the conference agreement for the Department of Defense appropriations bill. This is a very good agreement, one that I believe all Members should support.

The conference agreement provides $243.9 billion, an increase of $9.3 billion from the amount requested, and $500 million more than appropriated last year. The amount is nearly $1 billion less than provided by the Senate. While the total bill is lower than that passed by the Senate, the conference agreement protects the priorities of the Senate.

I believe as my colleagues review the bill they will see that the conferees, under the leadership of Senator STEVENS, forged a compromise which fulfills our constitutional requirement to provide for the common defense.

This bill in many ways improves the administration's budget request. First, the bill increases funding for operations and maintenance by $700 million to protect readiness. This includes: $600 million for facilities renovation and repair; $150 million for ship depot maintenance, to fund 95 percent of the Navy's identified requirement; $148 million for identified contingency costs for overseas operations, such as Bosnia; and $165 million for the President's counterdrug initiatives.

Second, the bill adds $590 million to fully fund health care costs identified by the surgeons general and DOD health affairs. This will allow our men and women in uniform access to the health care that they deserve.

Third, it recommends $137.5 million for breast cancer research, $45 million for prostate cancer research, and $15 million for AIDS research.

Fourth, the bill has fully provided for the pay and allowances of our military personnel, including a 3-percent pay raise and a 4 percent increase in quarters allowances.

Clearly, these few examples demonstrate that the conferees have responded to the needs of our men and women in uniform.

The bill also provides $43.8 billion for procurement of equipment, an increase of $5.6 billion above the request. This increase will provide for many of the high priority needs identified by our commanders in the field.

The administration identified several issues in the House bill that it opposes. The conferees have responded to nearly all of its concerns, rejecting restrictive legislative provisions, and funding administration priorities.

Chairman STEVENS and the managers on the part of the House have done a masterful job in keeping this bill clean. It safeguards our national defense, the priorities of the Senate, and rejects controversial riders.

In summary, Mr. President, this is a very good bill. I am strongly in favor of its recommendations and I sincerely believe it should have the bipartisan support of the Senate.

Mr. President, I signed the conference report—with reservation. I want my colleagues to understand that I have no reservations regarding the agreement on defense matters.

I do have reservations on the process by which several extraneous matters have been added to the DOD conference report. I understand that this was done in the interest of time. However, I must say that I do not think it is appropriate for entire appropriation bills—which have never been brought before the Senate—to be incorporated into a conference report.

I intend to vote for this measure because of the many worthy programs funded. I do so with some regret for certain measures which have been incorporated. And I hope that the next Congress will not follow this approach.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I am glad we have that vote behind us. I know Senators are very interested in how we will proceed and what will be the next subject we will take up.

Before I get to a unanimous consent request, I would like to inform all Senators, I know a lot are interested in what is happening with regard to the parks bill. We are still working on that. As most of you know, the House did pass a different parks bill from the omnibus bill that had been pending here. The conference report on the omnibus parks bill had been pending here, I guess, for 3 or 4 days. They moved another bill with a fewer number of parks in it, I think somewhere around 104 park projects, and then they added some heritage trails, 9 or 10 of those. So we have a bill pending here.

Still, some very important parks were not included in that list that came back from the House. Some of those are in Colorado, which is really hard to understand why they were not left in, some in Alaska, but several that really have a lot of support.

We have been working with the Senator from California and the Senator from Alaska to see if we can find a way to come to agreement of how we can get that legislation passed and address the concerns that are still out there.

That effort is still underway. We are working with the administration. Senator MURKOWSKI has been talking with White House officials in the last couple of hours. That effort is still underway. We don't know how we are going to be able to get it done or when. We are still working on it. As soon as we can get an agreement, we will make that announcement. I hope it can be done in such a way that a recorded vote is not necessary, but we are not to that point yet.

The business at hand is the FAA reauthorization bill. We cannot leave without getting that reauthorization done.

On Saturday, I had a unanimous consent request that we were prepared to propound, which we thought was going to be accepted, that the Senate turn to the consideration of the conference report to accompany the FAA reauthorization bill and that we would have a cloture vote on Monday, today, at 5 o'clock.

Because of the desire to notify the Members that we would not have further recorded votes on Saturday, I made that announcement so everybody would know, and that made it possible for this cloture effort to be blocked, in effect. The indications were that, "Well, we're going to have a scorched Earth effort and we might require all kinds of procedural votes," and we couldn't get to forcing this to a head after that particular move over the weekend.

So we are finding ourselves where we are now.

FEDERAL AVIATION ADMINISTRATION REAUTHORIZATION—CONFERENCE REPORT

MOTION TO PROCEED

Mr. LOTT. Mr. President, I am going to move to proceed to the FAA conference report, and I send a cloture motion to the desk.

CLOTURE MOTION

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

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to the conference report to accompany H.R. 3539, the F.A.A. bill:

Larry Pressler, Fritz Hollings, John McCain, Kay Bailey Hutchison, John Ashcroft, Ted Stevens, Slade Gorton, Bill Frist, Trent Lott, Fred Thompson, Al Simpson, Craig Thomas, Conrad Burns, Frank H. Murkowski, Olympia Snowe, Wendell Ford.

Mr. LOTT. Mr. President, I ask unanimous consent to read or present a statement as to what I am doing so everybody will understand exactly what is going on.

The PRESIDING OFFICER. The Senate will please be in order. Without objection, it is so ordered.

Mr. LOTT. Mr. President, there is broad bipartisan support for this legislation in its present form. So the purpose of this action just taken is to produce a cloture vote with respect to the FAA conference report.

Since Senator KENNEDY and others have blocked consideration of that conference report and are insisting on the report being read by the clerk, this cloture vote is only on the motion to proceed to the conference report. As all Senators know, the motion to proceed to a conference report is not debatable. Therefore, under the Senate rules, a cloture vote to limit debate is not necessary.

However, this vote, if invoked, would represent to the Senate that the votes are, in fact, there to adopt the conference report, and I believe it would be an overwhelming vote, probably well over 65, maybe 70 votes. I hope that the objectors will see their way clear to allow this vote to occur yet tonight.

That was one important point I wanted to make so that everybody would be on notice we could have a vote tonight, and if the prerequisite 60 votes are obtained, they realize this bill is going to go forward, the Senate intends to adopt the conference report immediately following the cloture vote or after a brief period of debate.

So I urge all colleagues to consider this request, and I will be visiting with the Democratic leader, who has been working with me trying to find a way to move this legislation through to conclusion.

I remind our colleagues that if we did change it, even, and send it back to the House, there is no guarantee that it would get through the House. In fact, I have been led to believe the House will not accept it if there is a change, putting us basically in the same position we are in.

What we need to do is to pass this legislation in the form that it presently exists, and it is my intent to move it forward one way or the other until we can get an agreement as to how we can come to a conclusion, where there is an overwhelming majority, a supermajority of the Senate who wants to do this.

I thank the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I appreciate the comments of the majority leader. For those of us who have observed that there was an inclusion in the FAA legislation that was targeted to one special interest, one special company that would have affected their labor relations, and added, and has virtually nothing to do with the FAA—

Mr. McCAIN. Mr. President, this is not a debatable motion.

Mr. KENNEDY. Mr. President, I believe I have the floor. Mr. President, I believe I have the floor. I asked for recognition.

The PRESIDING OFFICER. The motion to proceed to a conference report is not a debatable motion.

Mr. KENNEDY. I asked for recognition. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, I believe it is not debatable, but I rise just to say we have not been able to work out anything. The opponents of this legislation are insisting on going forward with procedural votes, and I think maybe that is the best way to go. So if the Senator from Massachusetts wants to make a motion now on a procedural vote which goes to the substance of the issue, we should go ahead and have that vote, and it could be followed by other votes.

MOTION TO POSTPONE THE MOTION TO PROCEED

Mr. KENNEDY. Mr. President, I send a motion to postpone 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 Massachusetts [Mr. KENNEDY] moves to postpone the motion to proceed to the consideration of the conference report to accompany H.R. 3539 to October 3, 1996.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. I move to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to postpone the motion to proceed.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 303 Leg.]

YEAS—97

Abraham	Breaux	Conrad
Akaka	Brown	Coverdell
Ashcroft	Bryan	Craig
Baucus	Bumpers	D'Amato
Bennett	Burns	Daschle
Biden	Byrd	DeWine
Bingaman	Chafee	Dodd
Bond	Coats	Domenici
Boxer	Cochran	Dorgan
Bradley	Cohen	Exon

Faircloth	Kassebaum	Pressler
Feingold	Kempthorne	Pryor
Feinstein	Kennedy	Reid
Ford	Kerrey	Robb
Frahm	Kerry	Rockefeller
Frist	Kohl	Roth
Glenn	Kyl	Santorum
Gorton	Lautenberg	Sarbanes
Graham	Leahy	Shelby
Gramm	Levin	Simon
Grams	Lieberman	Simpson
Grassley	Lott	Smith
Gregg	Lugar	Snowe
Harkin	Mack	Specter
Hatch	McCain	Stevens
Hatfield	McConnell	Thomas
Heflin	Moseley-Braun	Thompson
Helms	Moynihan	Thurmond
Hollings	Murkowski	Warner
Hutchison	Murray	Wellstone
Inhofe	Nickles	Wyden
Inouye	Nunn	
Jeffords	Pell	

NOT VOTING—3

Campbell	Johnston	Mikulski

The motion to lay on the table the motion to postpone the motion to proceed was agreed to.

Mr. FORD. Mr. President, I voted, reluctantly, for the continuing resolution. Clearly, we had to pass this measure because, without it, vital government functions would have shut down and hard-won investments in education and other Democratic priorities would not be made.

We are here, on the last day of the fiscal year, passing a massive omnibus bill, because the majority party has failed to do its work. Instead of moving through the normal appropriations process, with the opportunity to consider individual bills and amendments, we were forced to vote, up or down, on a bill put together in only the last few days.

I object to this process because it does not allow the consideration of the resolution's specific provisions that ought to be debated separately and out in the open. I have a particular interest in one of those provisions, Mr. President, because it affects my constituents in western Kentucky. I am referring to the bill's earmark of $3 million to create a national wildlife refuge in the Kentucky counties of Marshall, Graves, and McCracken.

Earlier this month, I announced my intention to offer an amendment to the Interior appropriations bill that would have redirected this $3 million to another wilderness area that is sorely underfunded, the Land Between the Lakes. In the interest of keeping the government open, I aid not offer that amendment today, but I would like to take a moment and explain what is at issue for the people of western Kentucky.

We have been told, Mr. President, that the provision in the continuing resolution is needed because Kentucky is the only state without a national wildlife refuge. This is simply not the case. In fact, large parts of two Federal wildlife refuges—the Ohio River Islands and the Reelfoot National Wildlife Refuges—lie within Kentucky. Together, they total about 2,200 acres. In addition to these areas, there are numerous state-run wildlife refuges and wilderness areas in Kentucky. So when supporters of the refuge tell us that Kentucky is the only state without a refuge, they're not telling us the whole story.

When we pass this continuing resolution, Mr. President, we will be appropriating $3 million for the refuge. But the U.S. Fish and Wildlife Service tells me that it'll cost another $17 million to actually create the refuge. Supporters of the refuge will be back next year, and the year after that, looking for more money.

Meanwhile, the Land Between the Lakes, a 170,000 acre preserve located just 15 miles away from the proposed refuge, continues to go begging. Due to budget cuts over the last several years, the main north-south roadway through the Land Between the Lakes has fallen into disrepair; the Brandon Springs Resident Center, which serves underprivileged and disabled children from around the nation, has been forced to put needed repairs on hold; and the Youth Station, which provided environmental education for children, including my own grandchildren has closed its doors.

Mr. President, we will probably hear that the Tennessee Valley Authority [TVA] got everything it asked for regarding the Land Between the Lakes. Don't be mislead. Last year, the TVA put together an options plan for how to commercialize the preserve and replace the federal money it receives. Now, the plan to commercialize was soundly rejected by Kentuckians. However, the plan points out that, simply to keep the Land Between the Lakes running would require $11.5 million annually. Reducing basic services to include only basic camping, limited lake access and the like would cost $6.5 million. And how much was appropriated for the Land Between the Lakes this year? Only $6 million! And out of that $6 million is a $900,000 bill for security that used to be paid for by the TVA. Clearly, funding for the Land Between the Lakes is far from adequate. And without federal support, the Land Between the Lakes will be forced to go commercial. I will not stand by and let that happen.

What is likewise galling to me, Mr. President, is that the people who live in and around the area of the proposed refuge don't support it. The head of the Marshall County Soil and Water Conservation District told me that "our opposition to making a federal wildlife refuge of the East Fork of Clark's River stems from the overwhelming opposition of landowners and tenants in the proposed area." This statement is borne out by the letters and phone calls I have received and by articles in local papers like the Paducah "Sun" and the Murray "Ledger-Times." A constituent from Benton told me that "farmers and others affected by the proposed refuge should be consulted. We have not been contacted."

It is possible that sometime today, supporters of the refuge will again bring out a list of 57 groups that support the refuge. As I have said before, I am sure each one is a fine organization. But not one is from the affected counties and the closest one is a hundred miles away from where the proposed refuge would be located.

Now, I want to be clear: I am not opposed to the creation of another national wildlife refuge in Kentucky. But I am opposed to creating a wildlife refuge that endangers the funding for the Land Between the Lakes and doesn't have the support of the Kentuckians who will be affected by its creation. A constituent from nearby Crittenden County told me that "it's hard to believe that LBL would continue to be properly funded with the addition of a $20 million refuge." He's right. We should, in the words of Marshall County's judge-executive, "take care of what we've got before we open" a new nature preserve.

Unfortunately, Mr. President, by including this $3 million earmark in the continuing resolution, we aren't taking care of what we've got. We are taking on another obligation at a time when we are hard-pressed to meet existing responsibilities. I hope that next year, the Senate will be able to consider all thirteen appropriations bills in the normal process so that these matters can be discussed out in the open. The people of western Kentucky deserve a chance for their voices to be heard.

FEDERAL AVIATION AUTHORIZATION ACT OF 1996—CONFERENCE REPORT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the conference report to accompany H.R. 3539, the FAA reauthorization bill, which is an $8 billion bill to keep the airports in this country operating and for airline safety, and that the reading of the conference report be waived.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object, Mr. President.

The PRESIDING OFFICER. There is objection.

The clerk will read the report.

The legislative clerk read as follows:

The committee on conference—

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The clerk will read the report.

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

The PRESIDING OFFICER. The clerk will read the report.

Mr. KENNEDY. Is it appropriate to ask for a quorum?

The PRESIDING OFFICER. A quorum call is not in order.

Mr. KENNEDY. I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested.

Mr. KENNEDY. Is there a sufficient second? I appeal the ruling of the Chair. A quorum is always in order. The appeal has been heard, and we are entitled to have a quorum call at this time.

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian, at this point the reading of the report is the regular order. That has been appealed. Are the yeas and nays requested—

Mr. KENNEDY. Yeas and nays.

The PRESIDING OFFICER. On the appeal of the ruling of the Chair?

Mr. KENNEDY. Yeas and nays, Mr. President.

Mr. SARBANES. Parliamentary inquiry, Mr. President. What is the ruling of the Chair?

The PRESIDING OFFICER. The ruling of the Chair is that the reading of the report is the next regular order on the advice of the Parliamentarian.

Mr. SARBANES. Is the Chair ruling that the request for a quorum is not in order?

The PRESIDING OFFICER. At this point, that is the ruling of the Chair.

Mr. SARBANES. On what basis does the Chair make that ruling?

The PRESIDING OFFICER. On the advice of the Parliamentarian. If Senators look at page 476 of the Senate procedure:

> The question of consideration cannot be raised until after the report has been read and the reading may not be interrupted even for a quorum call.

Mr. KENNEDY. Parliamentary inquiry, Mr. President. The clerk has not commenced reading. It has not commenced.

The PRESIDING OFFICER. The regular order, I am advised, is for the clerk to begin reading the conference report. The Senator objected to the reading. The Senator has objected to the request of the majority leader, so that the reading will commence.

Mr. KENNEDY. I appeal the ruling of the Chair and ask for the yeas and nays.

Mr. D'AMATO. There is no appeal.

Mr. KENNEDY. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. The Chair will deny appealing the ruling of the Chair under the most extreme circumstances. The Senator has asked to appeal the ruling of the Chair. It is the opinion of the Chair, the yeas and nays having been ordered, that the clerk will call the roll on the appeal of the ruling of the Chair.

The question is, shall the decision of the Chair stand?

Mr. BENNETT. Mr. President, parliamentary inquiry. Was there a sufficient second for the seeking of the yeas and nays?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. The reading of the conference report should proceed. There should be no parliamentary inquiry or any other interruption except by unanimous consent.

The PRESIDING OFFICER. That is the opinion of the Chair, but the Chair is also advised that except in very extraordinary circumstances the Senator is permitted to have an appeal of the ruling of the Chair. The Senator has asked for an appeal of the ruling of the Chair.

Is there a sufficient second?

Mr. KENNEDY. Sufficient second. Mr. President, I ask for the yeas and nays.

Mr. GRAMM. I don't think there is a sufficient second.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. It is not a debatable thing.

Is there a sufficient second? There is not a sufficient second.

Mr. GRAMM. Regular order.

The PRESIDING OFFICER. The clerk will read the report.

The question is on the appeal then. The Chair is not—

Mr. KENNEDY. The question is on the appeal. I ask for the yeas and nays.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate? Those supporting the ruling of the Chair will vote yea; those desiring to sustain the appeal will vote nay.

The appeal was rejected.

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

The PRESIDING OFFICER. The reading of the report is the next regular order. The clerk will read the report.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3539) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, 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.

Mr. McCAIN. I ask unanimous consent that further reading of the report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Objection.

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

The legislative clerk continued with the reading of the conference report.

During the reading of the conference report, the following occurred:

Mr. McCAIN. Mr. President, I ask unanimous consent that further reading of the conference report be dispensed with.

Mr. FEINGOLD. Mr. President, I object.

Mr. KENNEDY. Mr. President, objection.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the reading of the report.

The legislative clerk continued with the reading of the conference report.

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

Mr. KENNEDY. I object.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Objection is heard.

The clerk will continue reading.

The legislative clerk continued with the reading of the conference report.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Objection.

Mr. McCAIN. Reserving the right to object. I think that we should know what we are about here.

The PRESIDING OFFICER. Objection has been heard. The clerk will continue to read.

The legislative clerk continued with the reading of the conference report.

Mr. McCAIN. Mr. President, I ask unanimous consent that further reading of the conference report be dispensed with.

Mr. FEINGOLD. Objection. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to read.

The legislative clerk continued with the reading of the conference report.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the next title be considered as read.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. I object.

Mr. SANTORUM. I ask unanimous consent that the next page be considered as read.

Mr. FEINGOLD. I object.

Mr. SANTORUM. I ask unanimous consent that the next sentence be considered as read.

Mr. FEINGOLD. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. SMITH. Mr. President, I ask unanimous consent that further reading of the bill be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue.

The legislative clerk continued with the reading of the conference report.

Mr. McCAIN. Mr. President, I ask unanimous consent that further reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. The objection is heard.

The clerk will continue to read.

The legislative clerk continued with the reading of the conference report.

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

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to report.

The bill clerk continued with the reading of the Conference Report.

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

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the reading of the report.

The bill clerk continued with the reading of the conference report.

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

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. The Senator from Iowa has objected.

The clerk will continue reading.

The bill clerk continued with the reading of the conference report.

Mr. LOTT. I ask unanimous consent that further reading be dispensed with, with the understanding that we have reached a unanimous-consent agreement we will enter into momentarily.

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

(The text of the conference report is printed in the House proceedings of the RECORD of September 26, 1996.)

Mr. LOTT. After discussions with the distinguished Democratic leader and the Senator from Massachusetts, I believe we have an agreement here that would be in the best interest of all concerned in how we dispose of this legislation.

I ask unanimous consent that the motion to proceed be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. The conference report is now before the Senate.

CLOTURE MOTION

Mr. LOTT. I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate the conference report to accompany H.R. 3539, The Federal Aviation Administration Reauthorization bill.

Trent Lott, Don Nickles, Strom Thurmond, Jon Kyl, Judd Gregg, Slade Gorton, Paul D. Coverdell, Frank H. Murkowski, Craig Thomas, Harry Reid, Wendell Ford, Conrad Burns, Kay Bailey Hutchison, John Breaux, Tom Daschle, Arlen Specter.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the vote occur on cloture at 10 a.m. on Thursday, October 3, that there be 1 hour for debate to be equally divided between the two leaders prior to the cloture vote, a mandatory quorum under rule XXII be waived; I further ask unanimous consent that on Tuesday, October 1, there be 3 hours of debate, equally divided between the two leaders, on the conference report and 3 hours equally divided in the same fashion on Wednesday, October 2, both days for debate only.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, I thank all who have been involved in working out this agreement. I think it is in the best interest of the Senate. It is a fair way to deal with this important legislation that involves airport infrastructure and safety. This way, we will have ample time to have debate on Tuesday and Wednesday. We will get a vote on cloture on Thursday, and then we will be able to work toward a final vote, also on Thursday. So I thank the Senator.

Mr. STEVENS. If the leader will yield, I want to commend all Senators for this action and thank the leader for his determination, and the Democratic leader also for being patient and finding a way to bring this matter to a close.

Under the circumstances—and I have discussed this with the Parliamentarian—this means that we will vote before the week is out on the FAA bill. For that reason, I do withdraw all the objections that I filed to the matters pending. We have been waiting for some action to indicate we will vote on this bill this week.

Mr. LOTT. Mr. President, if I can, I will outline the closing script so all will be familiar with it.

When the Senate completes it business today, it will stand in adjournment until the hour of 9:30 a.m., October 1, and there will then be a period for the transaction of morning business not to extend beyond the hour of 12:30, with Senators permitted to speak therein for not more than 5 minutes each.

We will recess from 12:30 until 2:15 for the weekly party caucuses to meet. We will have the time agreed to, 90 minutes on each side, and the same will occur on Wednesday. We will go to votes on Thursday.

Mr. DASCHLE. If the majority leader will yield, I announce to our colleagues, just so there is no confusion, the Democratic caucus will not be meeting. It will just be the Republican caucus.

Mr. LOTT. Just before I yield the floor, I would like to make it official that we will have no further votes tonight. There could be votes on other issues tomorrow or the next day. We are still working very actively on the parks legislation. Perhaps there could be a vote on that on Tuesday or Wednesday.

Other than that, we don't anticipate any other votes. We need to make sure the Members are aware that there is that one possibility, at least.

At this point, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we will look forward to further debate on this measure on tomorrow and Wednesday, prior to a vote on Thursday. But I just want to reiterate for the record what I stated and what I think represents the feeling of all those that are opposed to this special provision in the legislation.

We were quite prepared to move toward an amendment on the continuing resolution, to offer the FAA bill without this amendment and go into a 10-minute time limitation. I am convinced it would have passed. So I hope we are not going to hear a lot of statements on the floor that those that now are opposed to this particular proposal are not in favor of the FAA conference report. We very clearly were. We have indicated—those of us on our side—to our minority leader that we were prepared to offer an amendment and to move that amendment on the shortest possible time. And we would have concluded both the continuing resolution and this measure here and, hopefully, might have even finished up the parks legislation, so the Senate would have been out tonight.

The burden for the delay is not on those of us who have spotted this special interest legislation. It is on those who want to continue it in the legislation. That is why there is going to be continued debate on Wednesday and Thursday on the substance of that particular legislation. I look forward to that matter. I think it is extremely important that we understand the record completely, since we were not given an opportunity earlier in the evening during the various parliamentary situations, to understand that all of us who are opposed to this special interest legislation are committed toward the FAA conference report and were prepared to take action for that during the course of the afternoon, or even tomorrow or the next day, if it goes on through without that special provision.

The burden lies on those who want to retain that measure. I am going to reject, and I do reject the suggestion that somehow those that want to continue that special provision in here are more concerned about safety in the airports than those of us who are not. That legislation could pass tonight if they want to strike that provision. We could move toward an implementation on it.

So I hope we will have an opportunity to debate the real merits of the legislation. I look forward to that. During the measure, we will point out what happened on the 1995 conference between the House and the Senate, when the Senate report now reveals that it was the Senate conferees that advanced the position to eliminate this language. We heard a great deal earlier in the day about where did this idea come from. Well, we find out, in reading the report now, that it was advanced by our Senate conferees, and the final report was signed by the Senate conferees for the elimination of that proposal. That is where it originated. But we will have more of an opportunity to go through what we are really talking about.

What we are talking about are workers and workers' rights. We are talking about those workers who were effective in terms of winning local elections by more than 60 percent of the vote in 1991 and the continued effort to frustrate workers who have played by the rules, followed the law, and now are having a legislative end-run over their legitimate interests and being added in the last hour.

So, Mr. President, this issue is not going to go away. We will have a chance to call the roll on Thursday. But before that, we will be able to make the case in terms of workers' rights and what is happening to those families, by this action, and circumventing litigation which is now currently pending, where those of us who have followed that believe that those workers' rights will be sustained. Nonetheless, we are faced with circumventing their very, very legitimate rights and issues, and I just feel that we will have a good opportunity to get through that on tomorrow and the next day.

So I look forward to that debate. I thank the leadership for working out at least this process, which will give some opportunity to focus on the substance of this particular measure and won't get lost or be buried under parliamentary maneuvers, which effectively have, today at least, eliminated the chance to have a full expression and discussion and debate on this measure.

I yield the floor.

Mr. McCAIN. Mr. President, I would like to thank both leaders—both the Democratic leader as well as Senator LOTT—for working out this arrangement with the assistance of many, including the Senator from Kentucky, Senator FORD, as well as others who have made this agreement possible.

I must say we have come a very long way in the last few hours when we were faced with what is clearly a filibuster. There is no doubt about it. We were not allowed to enter into time agreements. We were not allowed to move forward. There were quorum calls entered into. The record is clear as to what was transpiring here.

The fact is that people all over America who are concerned about airline safety, who are concerned about projects that are under way that need additional funding, new projects needing funding, nearly 9 billion dollars' worth—said enough, enough, enough. Move forward with this. We have enough problems with airline safety. We need the provisions that are in this bill to make the airlines safer and the people who use the airlines safe.

It is clear what was going on before. The Senator from Massachusetts clearly wanted to block this conference report from being enacted by the U.S. Senate unless that provision that he found objectionable be removed, even though safety would have been clearly in some jeopardy as well as further funding.

I do not mean to take on the Senator from Massachusetts on this issue. But I do think it is important to clarify the record. It is also important, Mr. President, to clarify the record as to what happened in conference. It was an open conference. It was not a closed conference. The conferees from both sides were there—both Republican and Democrat. There were open and honest exchanges that were held. The amendment that the Senator from Massachusetts finds so onerous, Mr. President, was proposed by one of the Democrat conferees from his side of the aisle—not from this side of the aisle. It was voted in favor of by both of the Democrat Senators from that side of the aisle who supported it.

So it was unanimous in the Senate. No objection was raised by any conferee.

I understand that the Senator from Massachusetts is a strong advocate of labor, and he has clearly his mission and his philosophy. I respect that even though I may not agree with him. But to portray this as some sort of behind-the-scenes, backdoor attempt by those on this side of the aisle to do something in the way of subterfuge simply flies in the face of what actually happened.

I want to repeat, the amendment was proposed by a conferee from that side of the aisle—not this side. It was voted on unanimously by all Senate conferees. Because, Mr. President, it is clear—was clear to the conferees and is clear now—that this was a mistake in legislation that needed to be repaired. That was the view of all of the conferees and all of us who have been involved in this issue for a very, very long period of time.

Mr. President, I am not going to go through—we will have time tomorrow and the next day; the hour is late—all of the vitally needed security measures that are part of this bill. I mean, they are vital. We adopted many of those that were recommended by the Vice President's commission because we felt we couldn't wait until next year. Some of these things have to be enacted as soon as possible. We are talking about a grave threat to the very lives of men and women who fly on airlines.

If we had done what was taking place in a parliamentary fashion as short a time ago as a few minutes ago while the bill was demanded to be read, then clearly we wouldn't have been able to move forward.

I am not going to go through the nearly $9 billion worth of projects that are vitally needed. I will not talk about all of those in the State of Massachusetts, or, frankly, those in the State of Iowa.

When I asked that further reading of the bill be suspended, the Senator from Iowa on three different occasions objected—objected. He must have objected to the $1.8 million that is going to be made available for Des Moines International, and the $1.4 million for Cedar Rapids Municipal for the sake of a cause that has to do with organized labor—organized labor, which is in an unprecedented fashion pouring money in to defeat Republicans in the upcoming election. I understand why the Senator from Iowa would do that. I understand why the Senator from Massachusetts would do it.

But I beg the Senator from Massachusetts, please, please don't portray what has just transpired as anything but what it was—an attempt to block passage of the conference on the part of the Senator from Massachusetts and the declared, avowed intention of the majority leader to finish this bill for the good of the United States of America and get a final vote on the conference report.

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

Mr. McCAIN. I am happy to yield to the Senator from Massachusetts for a question.

Mr. KENNEDY. Will the Senator yield so we can call up a clean bill that is at the desk right now and pass it tonight without that provision so that we can attend to all of those provisions that the Senator from Arizona mentions? We can call that right up tonight and pass it. Why don't we go ahead and do that? Or is the Senator from Arizona so strongly committed to this antiworker provision that he would deny those safety provisions from being adopted in the Senate and from being adopted tonight?

Mr. McCAIN. Is the Senator finished?

Mr. KENNEDY. Yes.

Mr. McCAIN. In response, I say to the Senator from Massachusetts—I am sure he was here on the floor when we entered into a unanimous-consent agreement, the unanimous-consent agreement which could have been objected to in just the last few minutes by the Senator from Massachusetts if he had chosen to, if he had wanted to get a clean bill. I suggest that he could have objected, and then said, let us have a clean bill. Instead, the Senator from Massachusetts sat silent while the unanimous-consent agreement was propounded. While the Senator from Iowa was—and who probably wants to ask another question about how he is beholding to organized labor, as well as the Senator from Massachusetts is, to the point where they would block passage of a conference bill that has to do with airline safety and the funding of nearly $9 billion worth of projects for the American people.

I would be glad to respond to any question the Senator from Iowa has.

Mr. HARKIN. I thank the Senator for yielding. I just ask the question. Will the Senator then sit silent while I propound a unanimous-consent request to bring up the bill?

Mr. McCAIN. I would be glad to. My colleagues may object, however, because they know we just entered into a unanimous consent agreement which, if the Senator from Iowa or the Senator from Massachusetts wanted differently, they could have objected to.

Mr. HARKIN. The point is we did bring up a clean bill, and, obviously, there is an objection on that side.

Mr. COATS. Would the Senator from Arizona yield?

Mr. McCAIN. Yes, for a question.

Mr. COATS. I say to the Senator from Arizona, we have just been put through about 5 hours worth of procedural gimmickry by the Senator from Massachusetts and the Senator from Iowa when the House has already adjourned, when the Nation's business in this Congress has been finished. Because the Senator from Massachusetts, as some, apparently, gift to organized labor, is not happy with one of the small provisions in a bill that provides airport safety and critical airport funding says, "I don't care what the rest of the Senate thinks, I do not care what the House of Representatives thinks," 435 people have finished their business in the House of Representatives and gone back home to their districts, and 100 Senators would like to complete their business—we thought we had at 6 o'clock, when a motion to table was overwhelmingly supported against the provision offered by the Senator from Massachusetts.

Do you remember what that vote was? That is my question. What was the vote on the motion to table?

Mr. McCAIN. Ninety-seven to two, I believe.

Mr. COATS. Ninety-seven to two. So clearly both Republicans and Democrats, with the exception of the two Senators—maybe there were three; I guess the Senator from Wisconsin was involved in this also—said, "No; we are going to hold onto the last procedural gimmick that we can possibly hold onto," and make the entire U.S. Senate not only stay in business until 11 o'clock this evening but come back tomorrow to debate only this issue, come back Wednesday to debate only this issue, come back Thursday so that we can have a procedural vote finally to force the Senator from Massachusetts, the Senator from Iowa and the Senator from Wisconsin to give up and yield to the overwhelming will of the U.S. Senate.

Is that the understanding of the Senator from Arizona of what is going on here?

Mr. McCAIN. That is my understanding.

Also, as you know, the House did vote on this very issue. There was a majority vote in the other body that approved of this legislation with the provision that the Senator from Massachusetts found objectionable.

I am sorry the Senator from Massachusetts and the Senator from Iowa have left the floor. So I will refrain from belaboring them further because I think it would be unfair to do so.

Mrs. HUTCHISON. Will the Senator yield?

Mr. McCAIN. I yield to the Senator from Texas as for a question.

Mrs. HUTCHISON. I would like to ask the Senator from Arizona, besides the fact that we are going to have to come back and debate this for 2 more days, if there isn't another point; that is, what happens tomorrow? Tomorrow is October 1.

I wonder how many States have airports with runways being built that might have to stop that construction. I wonder if there are air traffic control systems that are being improved that will not have the money tomorrow because we did not vote on this bill. I wonder if the Senator from Arizona knows there are some real issues that are going to be determined because there is not funding tomorrow for airport safety and terrorism and other very important airport issues that we have been talking about, as the Senator from Arizona knows, for months and months and months here trying to make sure that we fight terrorism, that we allow Americans to fly in safety and tomorrow, October 1, is the first day of the fiscal year.

I just wondered if the Senator from Arizona would like to discuss what we are going to miss tomorrow and the next day while we play games on the Senate floor.

Mr. McCAIN. I thank the Senator from Texas for raising that question because I think it is a very good one. We are talking about Tuesday, Wednesday, and a final vote on Thursday. We are talking about 3 days here. I intend to find out, between now and when we commence debate again tomorrow, how many projects, indeed, will have to be terminated for 3 days, how many projects will not be able to be started because for some reason we are dragging out the inevitable.

We all know there will be an overwhelming vote, probably end up with a voice vote once we vote cloture, I would imagine. And also as important is that we need to move forward as quickly as possible on these antiterrorism measures. In all due respect, I remember being belabored and beaten up because I did not support an increase in the minimum wage, that somehow I was cruel and inhumane to working men and women in America.

That is an allegation that may be true or not, depending on your philosophy, but I do not see how you can be concerned about the safety of people who are flying in the airlines if you are going to delay for no good reason the antiterrorism measures that we need to get to work on immediately. I fear and so do other people—certainly the Vice President's commission, certainly the task force that the Senator from Texas was a key and important member of in recommending the antiterrorism measures which are included in this bill—that there should be delay in moving forward with them as quickly as possible.

Look, again, I feel rather badly because the Senator from Massachusetts is not in the Chamber, nor is the Senator from Iowa, to respond. So I want to be very careful, and perhaps we will be able to reinitiate this debate and discussion tomorrow or the next day or the next day. But there was some very harsh rhetoric used about this side of the aisle when we were debating the minimum wage bill about insensitive, uncaring, and those kinds of things. Some of it I really regretted hearing and I thought it lowered the level of the debate and discourse in the Senate.

I have to say I cannot think of any good reason why we should not vote tomorrow, vote cloture on this bill tomorrow and move forward, why we should drag it out for 3 days and not have these projects, many of which the Senator from Texas referred to and which, by the way, I will get a list of and have read and included in the RECORD tomorrow. Why we do not move forward with those escapes me.

I want to point out one thing again for the RECORD. The Senator from Texas was involved in a task force convened immediately after the TWA tragedy and made some very in-depth studies and came up with some recommendations, which, by the way, I am very happy to say, the Vice President's task force came up with almost identically. I am very grateful for her

efforts because if it had not been for that, some of these provisions would not be in this legislation which is so important. So we owe a great debt to the Senator from Texas.

Mr. President, I yield the floor.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Mr. President, I rise not to prolong our proceedings; they have gone on far too long, but I wanted to express my thanks to the Senator from Arizona for his willingness to consider the problems with Denver's sixth runway. Denver is not only the newest major airport in the Nation but the biggest and perhaps one of the biggest in the world. It does need a sixth runway. I support the sixth runway. It is integral, I think, not only for operations in severe weather but integral for international flights out of the airport.

Mr. President, I have had a concern as the sixth runway has gone forward, and that is the record of Denver of not accepting the lowest bid when they contract out for projects. It strikes me we all have a responsibility, including within our States and districts, to make sure the public money is not wasted.

In requesting the GAO audit of the practices that led to the huge cost overruns at the Denver airport, we discovered, as reported by the GAO, that there were a significant number of contracts which were let for construction at the airport that were not given to the lowest qualified bidder.

Here, Mr. President, let me emphasize these are screened and deemed qualified, and there were a large number, significant number of contracts, I should say, that were not given to the lowest bidder who was qualified.

I had asked the GAO to determine how much money that cost the taxpayers, how much difference there was between the lowest bid and the higher bid that the airport in Denver accepted, and they were unable to come up with that. The information was simply not available as to how much money the taxpayers had lost because they had not taken the lowest qualified bid.

I give that background because my concern about the sixth runway is that that practice may be repeated on the sixth runway construction grants, and I think we would be remiss if we gave money for construction to that project which did not insist on either the lowest bid or, if they choose not to take the lowest bid—and there may be circumstances that justify that—at least they would disclose the amount of money that the bid they accepted exceeded the lowest bid.

Frankly, I believe disclosing that would be a strong incentive for officials who get Federal money to look for the best bargain for the taxpayer.

Here is what has happened. The amendment I offered—it was adopted on this floor—that required disclosure when you do not take the lowest bid of the major contracts was lost in conference. The House would not go along with it. I asked the City of Denver to give me a letter committing to disclose the amount of money of the bid that they accepted for the sixth runway exceeds the lowest bid, and they have declined to do so.

Mr. President, I cannot in good conscience ask this Congress to send money for the sixth runway in Denver without at least a disclosure by the city of how much money they leave on the table or how much money it cost the taxpayers.

So I am sad tonight. The Senator from Arizona listened to our concern. He was willing to help out Denver to try to work with us. He bent over backwards to try to be helpful, to look for avenues where this could be corrected and the sixth runway could go ahead, but I was not able to bring to the Senator from Arizona or this body a commitment from Denver that said they will disclose the facts when they get the lowest bid.

Mr. President, in light of that, unfortunately, the sixth runway is lost for this year. As I leave this body, I know it will be considered again next year. But, Mr. President, I hope future Congresses do not hand out money for someone who is not going to take the lowest bid, or at least disclose how much over that lowest bid they took.

Mr. President, I might point out that what happens in some of these cases is that the contractor who gets the bid, when he has not been the lowest bidder, then gets hit up for paying contributions from the politicians who ran for office who were involved in letting the bids. I think it is crystal clear to everyone what is involved here. You turn down the lowest bidder, you give the contract to someone who did not deserve it, at least in terms of the bidding process, and then you go and ask that contractor for money. I think there is not any doubt in anybody's mind who understands this situation what is going on there.

I do not think we ought to let it happen. I do not think we ought to hand out money without at least insisting that it be disclosed. I appreciate the efforts of the Senator from Arizona. I appreciate the efforts of the Senator from South Dakota, to work on this.

I am sad that we have not been able to go ahead with the sixth runway. But, Mr. President, this is an issue we should not ignore.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Colorado. I want to tell him that I had no idea that it was not a matter of public record when taxpayers' dollars are being used, as to what the bids were and who made the low bid and who made the high bid and what, in fact, was the entire process of ascertaining and awarding these bids. They should be open to public scrutiny. For the life of me, I cannot understand any rationale, when it is taxpayers' dollars being used, why this procedure and process should be hidden from public view.

I want to assure the Senator from Colorado that I view it, not only as something that I would want to do, it is something that I feel obligated to do, and that is to follow up on this issue next year. I do not know all the details of this matter in regards to Denver International Airport but let me tell the Senator from Colorado, as he knows as well as I do, when processes like this are kept from public view, it lends itself to procedures and results which are not always in the public's interest. That is why we demand open disclosure of bidding in the Federal process. Frankly, it should not happen anywhere without an open and complete accounting to the taxpayers for the taxpayers' dollars uses.

If they are using private money, if someone donates the money to the airport and says use this however you want to—fine. If they do not want to describe how it is being used or who gets the bid, that is fine also.

But, as long as it is taxpayers dollars—and correct me if I am wrong, some $4 billion has gone into the construction of Denver International Airport, I would ask the Senator from Colorado? Then I think, obviously, the best value for the dollar should be gained, not only for the people of Colorado, but for taxpayers all over America.

So, I again thank my dear, dear friend from Colorado. Frankly, I view him as our conscience. I am not sure what we are going to do without him. Everyone is replaceable around here, but he is one that I think is far harder to replace than most. I appreciate, again, his commitment on this effort.

Mr. President, before going through closing down the Senate, I want to again thank my friend from South Dakota, Senator PRESSLER, the chairman of the Commerce, Science, and Transportation Committee, which I will do again at the end of this process on Thursday. And I hope it is earlier.

Senator PRESSLER has been committed to this process. He has been actively involved. His leadership in the conference, his leadership as we went through this two year-long process, was absolutely critical and vital. I am grateful for his leadership and his example of conscientiousness, that he sets for all of us.

MORNING BUSINESS

Mr. MCCAIN. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

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

DEMOCRATIC TRENDS IN ASIA

Mr. PELL. Mr. President, as the 20th century draws to a close, we all find ourselves musing and marveling over the changes history has brought the world in this millennium. Human ingenuity has brought astounding advances in technology and in medicine. Society has also faced revolutionary changes and our forbearers who welcomed the year 1900 would little recognize the lives their descendants lead today. In politics, the 20th century brought new ways of thinking about the social contract between citizens and their government. Some, like fascism and communism, were dangerous and ultimately discredited failures. But democracy, the great experiment our Founding Fathers created on the shores of the New World, has not just endured but spread around the world. It has been my great delight to watch democracy begin to spread in Asia.

Some would argue that it is not natural that democracy would grow in Asia. Some Asian leaders and intellectuals have actively resisted the idea that democracy be a political option for the region. They have argued that Asian values—loosely Confucian, authoritarian, and family- or group-focused rather than individually-focused—are inconsistent with democracy. These leaders further argue that the stunning economic success of the East Asian "Tigers" is specifically due to their more closed political systems and to their emphasis on social stability at the expense of individual voice and choice. Moreover, these same leaders will point to legitimate problems in many Western societies—such as drug abuse, homelessness, violent crimes, to name a few—are the direct result of an overly permissive society that emphasizes individual freedom over social stability. But I believe that these cultural arguments distort reality and are often used as excuses for maintaining an authoritarian-style regime.

Democracy precludes neither economic success nor social stability. In fact, the rapid economic development of many Asian countries has brought new social problems and pressures that perhaps only a more democratic political system can relieve. Take, for example, Taiwan. As income levels rose, individuals gained a new sense of control over their own and their children's futures. Many traveled to the West and sent their children to study in Western universities, where they learned of the plethora of opportunities—professional, social, and personal—that democratic societies offer their citizens. They returned with new ideas and new expectations of and for their own government. The authoritarian style of leadership that characterized the government under Chaing Kai-shek proved unable to meet the needs of the rising middle class in Taiwan and the government was forced to evolve. Taiwan's current president, Lee Teng-hui, deserves much credit for managing and even fostering the change. Perhaps as a just reward, Lee won a popular reelected bid last March and became the first democratically-elected Chinese leader in history.

Mr. President, the political and social system on Taiwan is far from perfect, something the leadership there readily admits. But Taiwan has managed an astounding economic and political transformation in a relatively short period of time, with little violence or social upheaval. I believe that Taiwan serves as a sharp rebuttal to those who say that traditional Asian values will not permit the growth of a healthy democracy. Other Asian states, including Japan and South Korea, have found democracy to be consistent with economic development. Now even Mongolia has chosen democracy as its path to a brighter future.

Other Asian nations could benefit from following a Taiwan model of political reform. I find it unlikely that a country that is experiencing the rapid economic growth, technological development and social change that China is experiencing can long restrain the inevitable pressure for political changes as well. The military leaders in Burma have only hindered their country's economic development by forcibly resisting the results of democratic elections there.

Indonesia, in particular, has reached a critical point in its economic and social development. There are clear signs that the developing middle class is restless and chaffing within the current restrictive political system. President Soeharto, who has done so many good things for his country's development already, could cement his legacy as a great leader by taking steps toward a more responsive and participatory political system. Such steps would serve to enhance his government's standing in the country and in the world, not diminish it.

Mr. President, the U.S. cannot and should not ignore important cultural and historical differences between our own country and countries in Asia. There is much in Asian society that we in this country can learn from and we should be open to doing so. But Asian individuals are no less deserving of a responsive government and freedom of choice than their Western counterparts and cultural differences should not be used as a mask to conceal and support authoritarian regimes. It is very much in the U.S. interest to promote and support the trend toward democracy in Asia, as we have done for several decades.

We do not know what changes the 21st century will bring to our world. But we can hope and expect that our descendants will enjoy greater peace and prosperity if our nation trades and cooperates with a democratized Asia. Individual freedom and choice are not exclusively Western values and promoting them around the world is not Western imperialism. The growth of democracy has brought great benefits to nations that adopted it and Asian nations deserve these benefits as well. The trend toward democracy is already there; we should do all we can to foster and encourage it.

THE SAVINGS IN CONSTRUCTION ACT OF 1996

Mr. PELL. Mr. President, during my time in the Senate, I have worked to see that United States joins the rest of the world by converting to the metric system of measurement. Believe it or not, the United States is the only industrialized nation in the world that has failed to change to the metric system of measurement.

I believe the Federal Government, as a major consumer of goods and services, should lead the way and convert to the metric system. In 1973, I authored the Metric Conversion Act that later became law in 1975. That act set forth the policy of the United States to convert to the metric system. Section 3 of the Act requires each Federal Agency to use the metric system of measurement in its procurement, grants and other business-related activities.

Slowly but surely, the Federal Government has started to make that move. Federal construction officials in particular have made great progress in this area and have met with limited resistance from the construction community around the United States. All concerned deserve our praise for their efforts.

Unfortunately, legislation introduced in both the House and the Senate during this Congress would have provided permanent, complete exemptions for two industries from requests for the metric-sized building products required by Federal law for Federal construction projects.

Needless to say, I strongly opposed that legislation. Federal laws and Presidential Executive orders signed by Presidents of both parties over for 20 years clearly state that the United States should move to the metric system and that the Federal Government should lead the way—by example.

Over the last several weeks, I have joined with Senators HOLLINGS, GLENN, and BURNS to craft an acceptable amendment to the original legislation. I am not completely pleased with the result of our efforts and it is certainly not what I would have written. The result is, however, a compromise. I believe compromise to be integral to the working of the U.S. Senate and did, therefore, not oppose this substitute.

THANKS TO STAFF OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, when I first came to the Senate, I was assigned to the Committee on Interior and Insular Affairs, which we of course know today as the Committee on Energy and Natural Resources. As I prepare to finish my Senate career, I look back on my years on that committee as the source of the most rewarding and intellectually stimulating challenges of my years here. From the Arab embargo of 1973 to the natural gas wars of 1978, from the complex Alaska land issues of the early 1980's to the National Energy Policy Act of 1992, we have been engaged in vitally important work that is often long on complexity and short on glamour.

I am proud of the record we achieved, not only during my 8 years as chairman, but throughout my service, and I wish today to say thank you to a professional staff unlike any other, one which has served the committee and the country so well over the years.

Some of the best minds in the country have served on the committee staff over the years.

Whatever their reasons for coming, I believe most stayed and relished their time there because they found themselves in the company of other keen minds, and they knew that their mission would not be mortgaged to politics and that their task was to find honest, pragmatic, workable solutions to vexing problems. Almost all of them have gone on to rewarding careers in government and business, and I can only hope they were as enriched by their experience as the public product was by their service.

Luckily for me, some of the very best and brightest have remained to assist me as my service in this body comes to a close.

One of those staff members who has served me the longest and with particular distinction is the minority staff director of the committee, Dr. Ben Cooper. About the time I joined the committee, we became involved in the development of national energy policy in response to the crude oil supply interruptions in the Middle East that were disrupting our domestic economy. The committee has continued to be involved deeply in this issue, as indicated by its current name, which was attached to the committee during the reorganization of Senate committees that occured in early 1977.

Shortly after I joined the committee, a long-haired doctor of physics joined the Democratic committee staff from the University of Iowa, where he had been an instructor. He first joined the staff as a congressional science fellow employed by the then-chairman, our dear departed colleague, Senator Henry M. Jackson. Since those early days, I have worked closely with Ben, who officially became part of my staff in 1981, when I became ranking minority member of the committee. Ben has continued with me through my chairmanship of the committee and through our return to the minority.

Mr. President, there can be no better staff than Dr. Ben Cooper. He is perhaps the only remaining staff of either the House or Senate who has a complete institutional memory of the evolution of modern Federal energy policy. Ben has been active on energy issues that range from crude oil pricing to natural gas deregulation to the current electric restructuring debate. Ben is particularly an expert on nuclear policy, as would be expected from his physics background. I can say without reservation that Ben has played an active and, usually, key staff role on every piece of legislation relating to nuclear matters that has been considered by Congress in the last 20 years. In addition, Ben has played a key role on non-energy-related legislation ranging from public lands legislation to the risk assessment legislation that has been considered by the Senate during the last two Congresses.

Mr. President, throughout his long career as Senate staff, Ben has earned a reputation for honesty and professionalism both among the staff and Members of the House and Senate. Unfortunately for the Senate and, I believe, the process of developing sound public policy, Ben has indicated that he will be leaving the Senate by the end of the year to pursue new challenges.

Mr. President, my friendship with Ben Cooper will continue, but our daily interaction is not likely to continue, and I will miss Ben's daily good counsel tremendously. I commend Ben for a career well spent and well-conducted, congratulate him on the contribution he has made to our Nation and wish him the best in his future pursuits.

The Senate Energy and Natural Resources Committee has been fortunate to have a second long-term Democratic staff member who is as eminent in his field as Dr. Cooper is in the field of energy policy. I refer, of course, to Tom Williams, who is without equal in his knowledge of Federal policy toward public lands, national parks, the United States Forest Service and a variety of lands issues relating to the great State of Alaska.

Tom joined the Democratic committee staff of the committee in 1973 and has continued his service with the committee through today, except for a brief interlude at the Department of the Interior early in the current administration. During his service with the committee, Tom has served as key staff on every public lands and national parks bill that has been considered or enacted by the Senate. No staff member in the Congress has a greater institutional knowledge of these important, and often divisive issues that are often at once arcane and tremendously important both to the Nation as a whole and to individuals that may be affected directly by Federal policy.

I have had the pleasure of considering Tom my staff since I became ranking member of the committee in 1981. Throughout that period of time, I have valued Tom's counsel not only on the parks and lands issues, but on a host of other issues including the mining reform legislation that has been considered by the committee in the past several Congresses. Tom has the ability to counsel wisely and honestly on the various policy options available and on the often diametrically opposed arguments of industry and the environmental community. Tom has that great ability, shared by Ben Cooper and many of my staff, to remain calm and professional in the midst of the hottest and most divisive debates. For that reason, among others, Tom Williams has earned an excellent reputation among Members and staff alike in both the House and Senate.

Mr. President, I will miss my daily interaction with Tom, but I understand that Tom's talents will not be lost to the Senate or the public. I understand that Tom desires to continue in his service and I am sure that my colleague and friend, the senior Senator from Arkansas, who will become the ranking Democrat on the committee, will continue Tom's service with the committee.

Mr. President, I extend my thanks to Tom for his service and counsel to me and for his friendship and I am pleased that the committee and the Senate will continue to have access to Tom's talents and service.

A uniquely talented attorney serves as minority chief counsel of the committee: Sam Fowler. Sam has a long history of distinguished public service, first with the Smithsonian Institution, then with the President's Council on Environmental Quality, next with the House Interior and Insular Affairs Committee and, finally, beginning in 1991, with our committee.

Mr. President, Sam is a lawyer's lawyer. If Sam says the law says X, then you can be sure that the law says X. He is one of the most fastidious and careful researchers I have ever encountered. He has a special talent for expressing himself through the written word in a concise and precise manner.

Sam has staffed many issues in which I have taken particular interest. Perhaps in no area has his contribution been any greater than in the area of nuclear policy. Sam has exhibited the rare talent, at least among lawyers, for mastering the scientific terms and concepts associated with the development of nuclear power and the safe disposal of nuclear waste.

Finally, Mr. President, I would be remiss if I did not mention one other activity of Sam's that has enlightened

and enriched my life and those of the committee staff. Sam, on his own time, prepares incisive memoranda that trace the history and development of various aspects of the institution of republican government. Among his topics have been a history of gift rules, privileged motions, and the evolution of the modern State of the Union Address. This aspect of Sam's life illustrates his wonderful intellectual curiosity that is so vital in good staff.

Mr. President, Sam is a treasure of the committee, a treasure I will miss greatly.

In 1993, I learned that Bob Simon of the Department of Energy would be detailed to the Energy and Natural Resources Committee. Bob had started working for the Department during the Bush administration, and my staff director, Ben Cooper, told me of the high regard he had for Bob's acumen and integrity. I can say now from the perspective of 3 years later that Ben's endorsement, strong though it was, has turned out to be an understatement.

While many agency detailees treat their time with congressional offices as something like school without the examinations, Bob took his opportunity very seriously and began distinguishing himself almost immediately by his deft and thorough handling of difficult issues. Since coming on board, Bob has won the respect and admiration of his colleagues on the staff and the trust of the members who rely on his work, and he has demonstrated his possession of a rare combination of attributes—intellectual and technical mastery, outstanding political and strategic judgment, and complete reliability—which has made his work extremely valuable.

I want to express my sincere appreciation for Bob Simon's hard work and dedication, and I wish him the very best in the future.

No subject has presented more of a challenge to my committee or consumed more of our time than the vast issue of electricity deregulation, and I am frank to say that the sterling work done by Betsy Moeller, Don Santa and Bill Conway raised the bar significantly on my expectations for staff work in this area.

I am pleased to say that Cliff Sikora, whom we enticed to come from the Federal Energy Regulatory Commission, has more than met those standards. I am persuaded that no one in the country has a more commanding overall grasp of the thorny issue of electricity deregulation than Cliff, and he has done an exceptional job of bringing those talents to bear to assist me and other members of the committee in our deliberations in the scant year or so that he has been on the staff.

David Brooks came over from the House Interior Committee to join our staff in 1989. He has played a major role in shaping much of this country's recent policy on public lands, national parks and historic preservation. The California Desert Protection Act is one such example of David's craftsmanship. And there could be no more appropriate bill with which to associate David—whom we often refer to as the third Senator from Arizona—than the Arizona Wilderness Act, to which he devoted his unstinting attention. If we are fortunate enough to see enactment of the pending omnibus parks bill before the end of this Congress, it will owe in significant measure to David's determination and negotiating skills. His great knowledge and exemplary work ethic have added so much to the work of our committee, and I am most grateful.

Vicki Thorne, through her years as majority and minority office manager and clerk, has performed the unsung, often unnoticed, but always critical job of keeping the committee running, whether in organizing hearings, supervising publications or playing den mother to a large and diverse family of staff. Her efficiency has been matched only by an equable temperament and warm smile that enabled her and us to get our way far more often than not. She has my deepest thanks.

TRIBUTE TO STAFF OF SENATOR JOHNSTON

Mr. JOHNSTON. Mr. President, it was my great fortune to be assigned to the Committee on Appropriations relatively early in my first term in the Senate. It is through that committee that I have been able to serve my State in a way that I believe has contributed measurably to an improvement in the economic quality of life for the people of Louisiana.

As I began my second full term in the Senate, I had the added good fortune of taking over the reins of the Appropriations Subcommittee on Public Works, as it was known at the time, from a wonderful man who taught me so much about the Senate, the late and beloved Senator John Stennis of Mississippi. When I fell heir to that chairmanship, I also inherited the services of the longtime staff director of the subcommittee, Proctor Jones. It is of Proctor and his service to the Senate and his country that I wish to speak today.

Every now and then in this body, someone of the thousands of loyal staff who toil for us and our constituents achieves an elevated status among Senators and staff colleagues. I think few would deny that Proctor has long since reached that plateau.

Proctor Jones came to this body in 1960, and aside from 4 years of service as a proud Marine, he has served here continuously since that time. He has seen and participated in more of the sweep of politics and public policy than most of us can imagine, and along the way he has amassed an unrivaled knowledge of the legislative process and a nearly unmatched institutional memory.

Members of both Houses and on both sides of the aisle know they can turn to Proctor for advice and assistance with absolute confidence that their requests will be treated fairly and respectfully. And they know that he gets results. Proctor's broad and detailed knowledge of his appropriation areas helps account for his uncanny ability to find the means—when none appears available—to achieve the legislative goals that we set. While such knowledge gives Proctor authority, he would never think of abusing the great powers we entrust to him. He is a man who loves and cherishes the institutions of government and who is guided by the fine Georgia code of honor he learned from his early mentor, the late Senator Richard Russell, the giant whom Proctor served early in his Senate career.

If anything, he is self-depreciating and deferential to a fault: as he is fond of saying, "I just work here, I don't vote. And I love my job." He has indeed loved his job and has performed his duties in a way that has made a profound difference in those areas covered under our Energy and Water Development Appropriations Subcommittee. He has always understood that we have a serious obligation to protect and improve the country's physical infrastructure and to support and nurture the Nation's scientific brain trust at the national laboratories and throughout the Federal Government. Uninformed critics have sometimes derided those vital responsibilities as pork or misplaced priorities, but I firmly believe that Proctor's vision and dedication have contributed mightily to the security and strength of this country.

Proctor has also become my valued personal friend, owing in large measure to his infectious enthusiasm for everything in life from opera, to travel, to sports, to hiking, and joyous gatherings of friends and family. As I conclude my service in the Senate, I want Proctor and his family to know that I speak for my colleagues, past and present, in saying thanks for a job done well and as no one else could have done it.

Mr. President, no senator has been blessed with a more capable, more loyal, more effective staff than I have. For 24 years, they have worked for my office, our State, and our Nation with energy and diligence. All of the staff over these years have been excellent, but at this time I want to especially recognize the three most senior staffers in my Washington office for their special talents and contributions.

When I arrived in Washington in November 1972, I was taken in tow by Bill Cochrane of the Rules Committee, who gave me invaluable assistance and counsel in setting up my office. Like most new Senators, I was short-handed

and uncertain about the best way to staff my office and deal with the avalanche of mail, telephone calls, and visitors. Bill mentioned to me that he knew of a young woman, Patsy Guyer, who had worked with him on the staff of Senator B. Everett Jordan of North Carolina and who was available and was a prodigious worker. She was quickly hired, and I don't think her output has slowed one iota over the 24 years she has been on my staff. As my executive assistant, Patsy has handled a huge array of responsibilities over the years, ranging from supervising State offices to managing summer interns, to creating and overseeing an exceptionally efficient mail operation.

But if Patsy should be singled out for anything, it is her management of and deep personal commitment to a "case work" operation that is unmatched in the volume and quality of service it has rendered to countless thousands of Louisianians in need. I am very proud of the aid my office has given over the years to people who had nowhere else to turn, whether it was securing a visa, locating a loved one, or breaking an impasse on a disability payment or a VA widow's benefits.

We were able to be effective principally because Patsy Guyer has an astounding network of friends and colleagues throughout the Congress and among Federal agencies and, most of all, because she greeted every case, no matter how routine, with the enthusiasm and commitment she brought to her first day on the job in November of 1972. Whether the challenge was to bring home from Abu Dhabi a tragically injured Louisiana businessman, locate a missing child in a Rwandan refugee camp, or organize a food airlift to Cambodia, we always knew Patsy would have the ingenuity and contacts to start the process and the absolutely iron-willed determination and dedication to see it through to completion. I have never known a more selfless and giving individual, and I know I speak for untold thousands in Louisiana in expressing deep gratitude for the extraordinary service that this loyal daughter of North Carolina has rendered to Louisiana and our country.

Mr. President, as many Senators know, Becky Putens has been my personal secretary for the last 18 years. While that is her title, it hardly does justice to the multitude of roles that she has had to play in that time. She has been my gatekeeper, my scheduler, my right-hand person; she keeps track of where I need to be, arranges how I will get there, and generally has acted as a buffer between me and the enormous number of outside demands on my time and attention that characterizes this job. Most of all, though, Becky Putens is a fixer: she takes care of problems, from the routine to the seemingly insurmountable, with an aplomb and calmness that is remarkable, and that has, in countless large and small ways, made my time as a Senator more effective, more efficient, and generally more fun.

As my colleagues and her peers—a group of Senators' personal secretaries who call themselves "senior babes"—can attest, the small area just outside a Senator's office often takes on the aspect of Grand Central Station at rush hour. Becky is the person who keeps it all together and all running smoothly. Through it all, and maybe because of it all, Becky displays a sense of humor and a way with people and with words that is legendary among many of the longtime staff and Senators. For someone in a position that is always demanding and often thankless, such an attitude is almost a requirement, and for me it has often served to make even the most tiring and demanding days and nights in the Senate bearable.

But, to me, the most fundamental aspect of Becky's personality is her unquestioning dedication. Whatever the circumstances, however late or early, on weekends or during vacations, if I am there, Becky is there; if I am under the gun, Becky is at my side. In short, in a field of endeavor where loyalty is an often-invoked but seldom-realized ideal, Becky personifies it. I am grateful for her service.

Mr. President, Eric Silagy has managed to pack more achievements into his brief career than any young man I know. He came to my office in 1987, fresh out of the University of Texas. In less than 2 years, he was chief scheduler for a Senate campaign that was as politically significant and hard fought as any in this century. His intelligence, good judgment, and youthful energy were important factors in our victory. For the next 4 years, he served as my legislative assistant while attending Georgetown University Law School, performing superbly in both capacities. Since 1994, he has been my administrative assistant and chief of staff. Thanks to his excellent organizational skills and his tact and good humor, it is an office that has been a productive workplace for a happy, hardworking, and extremely talented staff.

Just as important to me as his skill in running the office, however, has been his remarkable political and policy judgment, which I rely upon in making all the most crucial decisions that come before me; and his extraordinary effectiveness in getting the job done, no matter what the odds against it. Once an ideal legislative outcome has been selected, there is very little that can stand in the way of Eric's efforts to find a way to get there. While some divide the world into thinkers and doers, Eric Silagy manages to combine the best aspects of both. I want to express my gratitude for his diligence and devotion, and commend him for a job well done.

TRAGEDY AND TRIUMPH: A PILOT'S LIFE THROUGH WAR AND PEACE

Mr. PRYOR. Mr. President, I want to call the attention of my colleagues to a new book by a very brave Arkansan, James "Paladin" Fore. Written along with Larry Jacks, the book, "Tragedy and Triumph: A Pilot's Life Through War and Peace," serves as both a biography and a history. In a very unique way, Jim writes about the horrific events he witnessed through a flying career of more than 40 years. I want to commend Jim for writing this fascinating book which follows him from World War II through the conflict in Southeast Asia accumulating more than 37,000 flying hours.

As both a military and civilian pilot, Jim witnessed history in the making in over 100 countries. Mr. President, for a unique perspective on history through the eyes of a pilot, I highly recommend this book.

TRIBUTE TO JAN PAULK

Mr. PRYOR. Mr. President, I rise today to pay tribute to a very dear friend who has spent more time working for the U.S. Senate than I have. Jan Paulk has left this body to go on to bigger and better things, and Barbara and I want to wish her all the best in her future endeavors.

Mr. President, there is not a member of this Senate that Jan has not helped in one way or another, and I know all my colleagues join me in thanking Jan for her service.

As a fellow Arkansan from Russellville, Jan came to Washington in 1966 as a staff member to the late Senator J. William Fulbright. In 1971, she joined the Committee on Foreign Relations and served as a professional staff member for 10 years. However, most of my colleagues have become better acquainted with her in her most recent post.

Since 1982, Jan Paulk has served as the director of the Office of Interparliamentary Services, guiding and assisting each one of us in our official duties both here and abroad as Members of the U.S. Senate. Mr. President, the entire Senate will miss Jan Paulk, but I know she will move on to other challenges. Mr. President, Jan Paulk will face all of these new endeavors with the charm and grace that made her such a viable part of the United States Senate.

TRIBUTE TO SENATOR HOWELL HEFLIN

Mr. HOLLINGS. Mr. President, truth be told, I don't know which I find more upsetting, the idea that the Government is losing a much-valued judicious voice, or the idea that I might inherit the dubious honor of having "the slowest drawl in the U.S. Senate." Either

way, we'll miss HOWELL HEFLIN greatly.

However, I welcome this opportunity to celebrate the career of a man who has built a grand reputation as both advocate and judge.

Today, with every front page screaming about the public's disillusionment with politicians, HOWELL HEFLIN stands as a model of integrity and dedication. In this era of increasing partisanship, he is a Senator who would not vote along party lines against his own constituency. In this atmosphere of media scrutiny, he is a judge who could not vote along the lines of popular opinion against his own conscience. He leaves a legacy of what it truly means to be in government: to represent the interests of the voters and to govern according to the law.

Whether he was working on court reforms, championing agriculture, advocating a balanced budget, or defending the space program, HOWELL has spent his 16 years in the Senate working hard for the people who put him there. He has been a tireless representative for the people of Alabama, and a tenacious defender of their interests. He is not a distant politician immersed in Washington business.

HOWELL HEFLIN's record of public service did not just benefit his home State. With his distinguished service on the Senate Ethics Committee, the country came to know a just, pragmatic, and compassionate judge of character. Though he didn't like to sit in judgment of his peers, he steered the country through some rough and divisive episodes and our Nation became familiar with the man we already knew as the Judge.

As you well know, Senator HEFLIN has a reputation for being an independent thinker, a master storyteller, and a strong proponent of issues he believes in from civil rights to family values.

One thing that never fails to amuse me is when critics attempt to malign HOWELL HEFLIN, the most scathing thing they can come up with is to call him a fence-straddler or indecisive. This is ironic because it is this quality that has made him such an exemplary Member of the Senate. He listens to all the arguments before making his decision, and when he does, it is fair and just. As Thomas Jefferson pointed out in a letter to George Washington: "Delay is preferable to error."

We will miss Senator HEFLIN and his charming wife Mike, but we couldn't expect to keep them in Washington forever. So I wish for them the best of luck in the future.

TRIBUTE TO SENATOR BROWN

Mr. FEINGOLD. Mr. President, I rise today to bid farewell to the senior Senator from Colorado, HANK BROWN and to wish him all the best upon his retirement from this Chamber.

Mr. President, my association with Senator BROWN has been brief, by Senate standards, but it has been quite enjoyable. We have the shared goal of reducing this Nation's deficit, even if we have not agreed on each and every step of the way.

I am proud to say I worked with Senator BROWN on the Kerrey-Brown deficit reduction package 3 years ago, a proposal that would in and of itself have chopped $100 billion from the deficit. Although we were ultimately unsuccessful, the Kerrey-Brown proposal was a model of bipartisanship, and I am convinced it laid the groundwork for more recent bipartisan deficit reduction efforts.

Senator BROWN and I have also served together on the Judiciary and Foreign Relations Committees, and I have appreciated his comity and his open-mindedness.

Mr. President, Senator BROWN leaves us after only one term as a U.S. Senator. We all wish him well, and we all hope future Senators, from Colorado and elsewhere, take a lesson from his tenure in the value of bipartisanship and civility. Those qualities have served him well, and they have served the Senate well.

TRIBUTE TO SENATOR BRADLEY

Mr. FEINGOLD. Mr. President, I rise today to salute Senator BILL BRADLEY as he closes a distinguished career in the U.S. Senate.

A thorough recitation of Senator BRADLEY's achievements would require a large portion of today's RECORD. His many accomplishments as a scholar, an athlete, a writer, and a lawmaker are well-known. So let me limit myself with just one area to which he has applied his considerable intelligence and energy, that of bringing a sense of fiscal responsibility to the Federal budget, and particularly, fairness to our Tax Code.

Senator BRADLEY has been praised as a serious student and an original thinker in terms of fiscal policy, marked by a disposition for prudence, fairness, and clarity. Little wonder he has been ranked highly by the bipartisan Concord Coalition for his efforts to cut wasteful spending.

I have specifically appreciated his leadership in the effort to reform our system of tax expenditures, what amounts to a $400 billion annual Federal spending program with scant congressional oversight. Senator BRADLEY has sought reform of this system for years, and I will be one of those who will continue that fight in the 105th Congress. I hope citizen BRADLEY will be available for advice, encouragement and support in that effort.

Mr. President, I know the U.S. Senate will miss the presence of BILL BRADLEY, and I hope that, from whatever vantage point he has after he takes his leave of us, he remains engaged in the public policy debate. We need people of intelligence, energy and good will, and BILL BRADLEY possesses all those traits.

TRIBUTE TO SENATOR SIMPSON

Mr. FEINGOLD. Mr. President, I rise today to extend my best wishes to Senator ALAN SIMPSON of Wyoming upon his retirement from the U.S. Senate.

Mr. President, in a New York Times interview published in June, Senator SIMPSON was asked to offer valedictory advice to the next class of Senators who will arrive with the 105th Congress. Among his suggestions was "be your best self" and "learn to compromise an issue without compromising yourself." Those words would be an apt summation of Senator SIMPSON himself.

You always know where you stand with ALAN SIMPSON, and where he stands with you, even when it's against you. He has demonstrated respect for the Senate, his colleagues, and for the public policymaking process. He is a man to be trusted, and, therefore, respected, and that has made working with him on the Judiciary Committee a pleasure.

I also appreciated Senator SIMPSON's cosponsorship of the McCain-Feingold campaign finance reform legislation.

Like so many of my colleagues, I will miss ALAN SIMPSON, and I wish him and his wife, Ann, all the best for the future.

TRIBUTE TO SENATOR SIMON

Mr. FEINGOLD. Mr. President, I rise today to pay tribute to a distinguished lawmaker, a devoted public servant, and a good friend, the senior Senator from IL, PAUL SIMON.

It has been nearly half a century since PAUL SIMON bought the Troy, Illinois, Tribune and began crusading against local crime and political corruption, a pretty gutsy thing to do for a 19-year-old who had just left college.

But, as many of us have learned, courage, candor, and dedication to principle are fundamental components of PAUL SIMON's character. I am proud to have had the opportunity to serve with him in the U.S. Senate, and I will miss him greatly upon his retirement.

Mr. President, 1996 marks Senator SIMON's 40th year in public service. He served in the Illinois House and Senate, and as Illinois' Lieutenant Governor before coming to Washington in 1974 as a Congressman. He joined this body in 1985.

Millions of Americans can thank PAUL SIMON for his important role in the passage of legislation to improve literacy and to support adult education and school-to-work programs. He fought to make student loans more affordable.

He has stood by America's working families. He has worked to improve America's relations with the nations of Africa. His sense of social justice has anchored his opposition to the death penalty, and, not surprisingly, this former crusading journalist also has been a reliable defender of the first amendment.

He has been, as columnist Jack Anderson once described him, "a model of integrity."

He has also found time to write a weekly newspaper column, which has enjoyed a run of 48 years.

Mr. President, Senator SIMON and I have served together on the Judiciary Committee and the Foreign Relations Committee, and we have worked together closely on many issues, including bipartisan legislation to reform our system of funding political campaigns, legislation on which he was a cosponsor. Throughout it all, I have valued his opinions, his camaraderie and his ability to maintain his cordiality so many feel is slipping away in our public debate.

I understand Senator SIMON will be taking a post at Southern Illinois University, teaching journalism and politics. I expect he may also keep writing books. He has authored or coauthored 16 of them at last count, including an authoritative book on Abraham Lincoln's years in the Illinois Legislature and one about another crusading journalist, Elijah Lovejoy.

Whatever his future pursuits, PAUL SIMON has already created a memorable legacy in his public service career.

TRIBUTE TO SENATOR PRYOR

Mr. FEINGOLD. Mr. President, I rise today to acknowledge the service and the friendship of Senator DAVID PRYOR of Arkansas.

Mr. President, Senator PRYOR's story begins in much the same way as another retiring Senate colleague, PAUL SIMON—as a journalist. After graduating from the University of Arkansas in Fayetteville in 1957, Senator PRYOR founded a weekly newspaper, The Ouachita Citizen. He entered politics in 1960, winning a seat in the Arkansas House of Representatives, to which he was reelected in 1962 and 1964, while simultaneously earning a law degree from the University of Arkansas.

His career in public service carried him to Congress in 1966, to the Governor's office in 1974 and then to the U.S. Senate in 1978. Following him to the Governor's office that same year was the young attorney general of Arkansas, William Jefferson Clinton.

Mr. President, my association with Senator PRYOR began with my joining the Senate in 1993. As it happened, we both share a deep interest in the issues affecting older Americans. Whether the issue is nursing homes, the price of prescription medications, fighting fraud and abuse, consumer protection, or, perhaps most importantly, the reform of our system of providing long-term health care, Senator PRYOR has been a leader.

In his position as chairman of the Special Committee on Aging, and now in his role as ranking member, Senator PRYOR has been this Chamber's preeminent voice on aging issues. It was no surprise that he was selected last year to chair the White House Conference on Aging.

Perhaps most crucially, Senator PRYOR has helped Americans to see that we must all face the inescapable fact of growing older and the issues that fact presents. He has argued that issues of concern to our senior citizens are not special interest issues, but have an impact on all other generations as well. When we are debating and voting on these issues, we are debating and voting on our own futures. In Senator PRYOR's eyes, we are all, in fact, in this together, and one of the measures of our society is how well we treat one another.

Mr. President, America's senior citizens are losing a knowledgeable and effective advocate as DAVID PRYOR retires, and the U.S. Senate is losing a gentleman and a friend. I have enjoyed working with Senator PRYOR, and I wish him and his family all the best as he takes his leave of an institution he has served so well.

TRIBUTE TO SENATOR EXON

Mr. FEINGOLD. Mr. President, I rise today to extend my best wishes to my colleague, Senator JAMES EXON of Nebraska, upon his retirement from the U.S. Senate.

Senator EXON's political career stretches back to 1970, when Nebraskans first elected him as their Governor, and throughout, he has built a reputation for fiscal responsibility and sober assessment of the cost of government. He carried those qualities with him when he was elected to the Senate in 1978, part of a class which is seeing several members retire this year.

In a political environment that many fear is marked, perhaps a better word is scarred, by ever-greater partisanship and ever-declining civility, Senator EXON has been able to work in a birpartisan manner and retain his cordiality, qualities which would be well-recommended to any lawmaker. His dedication to fiscal responsibility and reducing the Federal deficit has led him to take many courageous stands. I am particularly grateful for his early and steadfast support of my efforts to prevent a massive tax cut from undermining our efforts to achieve a balanced budget, a position that has not always been popular.

I have enjoyed working with JIM EXON, and I hope he enjoys a well-earned retirement from public service.

TRIBUTE TO SENATOR PELL

Mr. FEINGOLD. Mr. President, I rise today to pay tribute to a gentleman who has done so much to advance the cause of education in our Nation, Senator CLAIBORNE PELL, as he nears the close of a 36-year tenure in the U.S. Senate.

A recitation of Senator PELL's accomplishments and the qualities of his character that have earned him the respect of so many of his Senate colleagues would fill a sizable portion of the CONGRESSIONAL RECORD, but I will limit myself to a few remarks which, I hope, reflect the respect and admiration I feel for the senior Senator from Rhode Island.

Mr. President, I have served with Senator PELL on the Foreign Relations Committee since I joined the Senate in 1993, and I quickly learned to respect the word of a man who has been engaged in international affairs, and the development of America's role in the postwar world, since he attended the founding conference of the United Nations in 1945.

He has been a stalwart supporter of the movement to secure and protect human rights in all parts of the world. We have joined forces, for example, to protest human rights abuses by the Indonesian Government against the people of East Timor.

Senator PELL pressed for his country to take a strong leadership role in protecting the global environment, and he has also been active in efforts to control chemical weapons and to keep nuclear weapons from being sited on the floors of our oceans.

But, Mr. President, CLAIBORNE PELL will doubtless be remembered for another accomplishment.

Since 1973, more than 60 million Americans have received college educations with the assistance of the Basic Educational Opportunity Grant Program, known since 1980 as the Pell grants. Fathering a program that has done so much good would, in and of itself, rightly establish a Senator's reputation. For Senator PELL, it was a high point in a long and distinguished career.

Mr. President, it has been wisely said that only the educated are free. In that sense, Senator PELL has probably been as responsible as anyone for securing freedom for millions of Americans.

He also did much to improve the quality of their lives with his efforts to create and nurture the National Endowments for the Arts and for the Humanities.

If his accomplishments were not enough, Mr. President, CLAIBORNE PELL also set an example for senatorial behavior.

The people who send us here expect us to study the issues with care, conduct our business with civility and make our decisions with respect to the common good. That is exactly what

Senator PELL did for 36 years, and that is why the people of Rhode Island kept sending him here.

Mr. President, I will miss CLAIBORNE PELL. I wish him every contentment in his life after he leaves this chamber, and I hope that we who remain will be mindful of his example.

TRIBUTE TO SENATOR NUNN

Mr. FEINGOLD. Mr. President, I rise today to acknowledge the long service of Senator SAM NUNN of Georgia and to wish him well as he leaves the Senate after 24 years.

Mr. President, I have read that, as a young man, SAM NUNN was judged by his home town newspaper back in Perry, GA as "headed for something big or important in this old world." Anyone who reflects on Senator NUNN's long and distinguished career in this Chamber would agree that prediction was fulfilled, both in terms of "something big" and "something important." For Senator NUNN leaves behind an impressive reputation as a lawmaker.

Senator NUNN's reputation as an expert on military matters is well-known, and, of course, well deserved. But I believe that reputation inadequately describes the breadth of Senator NUNN's intellectual reach, his deliberate and thoughtful approach to the issues before him, and his skill at forging bipartisan consensus. I was particularly pleased when he became a cosponsor of the McCain-Feingold bipartisan campaign finance reform bill.

Whether the subject is national defense, economics, domestic policy or cultural values, and whether or not you end up agreeing with him, you can learn things from listening to SAM NUNN. Equally as important, you could, through his actions, be reminded of the value of respecting this institution and the lawmaking process.

Mr. President, when Senator NUNN last year announced he would be leaving this body, to the shock and surprise of nearly everyone, he expressed concern that the qualities of sensitivity and prudence were being driven out of political debate "by the extremes in both parties, who are usually wrong but never in doubt."

I am not alone in sharing that concern with Senator NUNN, and I am certain I am not alone in my appreciation for the way he has demonstrated the value of a thoughtful, prudent approach to the making of public policy.

TRIBUTE TO SENATOR KASSEBAUM

Mr. FEINGOLD. Mr. President, I rise to offer a few heart-felt words of appreciation to Senator NANCY KASSEBAUM as she closes the book on a truly distinguished public service career.

Last December, shortly after she announced her intention to retire, I rose to thank Senator KASSEBAUM for her leadership, her independent mind, and her graciousness, particularly in her stewardship of the Subcommittee on African Affairs. I am here today to offer a last farewell to an outstanding colleague.

Since I spoke last December, Senator KASSEBAUM has added another significant accomplishment to her career—the passage of the Kassebaum-Kennedy health insurance reform bill, and she was a cosponsor of the McCain-Feingold campaign finance reform bill, support I greatly appreciated.

I am not certain what the future holds for Senator KASSEBAUM, but no matter where she goes, she will, I am certain, always be an example of independence, intelligence, prudence, and integrity.

TRIBUTE TO SENATOR JOHNSTON

Mr. FEINGOLD. Mr. President, I rise today to bid farewell to the senior Senator from Louisiana, J. BENNETT JOHNSTON, and to acknowledge his long service in this body.

Senator JOHNSTON's political career spans 32 years, beginning in the Louisiana State legislature. Since his first election to the U.S. Senate in 1972, he has universally been regarded as a leader on issues affecting this Nation's energy policy. He has also built a reputation as a patient lawmaker, willing to listen and always cordial.

When he announced his retirement in January of 1995, Senator JOHNSTON delivered a ringing statement of his respect for this chamber, saying, "The United States Senate, with all its faults and criticisms, remains a bulwark of our democracy and a hallowed institution. I will stand up for it, will not bash it, and will defend it against those who do." He has contributed much to the deliberations and the workings of this body, as well as being dedicated to advancing the interests of Louisiana and his constituents.

I wish Senator JOHNSTON well after he leaves this body.

TRIBUTE TO SENATOR HATFIELD

Mr. FEINGOLD. Mr. President, I rise today to bid farewell to an outstanding U.S. Senator, MARK HATFIELD of Oregon, upon his retirement from this Chamber.

Serving in the U.S. Senate with MARK HATFIELD, who was one of my personal heroes long before I aspired to join this body, has been a very meaningful experience in my career in public service. Senator HATFIELD has made his mark as one of the finest Senators to serve in this body.

In a New York Times article 2 years ago, Senator HATFIELD characterized himself as having been out of step most of my political life. While it may perhaps be accurate that Senator HATFIELD was out of step with political fashion, he was always in step with his conscience, his view of right and wrong, and his personal sense of integrity.

As a student in Wisconsin during the turbulent Vietnam war era, MARK HATFIELD's courage and leadership were well known to me. His persistent opposition to the United States' involvement in that tragic conflict drew attention to the costs, material and spiritual, of the war, and he took a bold step toward trying to avert further tragedy with his joining then-Senator George McGovern in sponsoring the McGovern-Hatfield amendment to end the war.

This was the stance of a man who had himself seen the terrible costs of war up close. He commanded landing craft at Iwo Jima and Okinawa, and he was one of the first Americans to see Hiroshima after the dropping of the first atomic bomb in 1945.

A man of fiscal prudence, Senator HATFIELD has consistently advocated more reasonable levels of military spending, even during the 1980's, when a President from his own party was calling for the largest military expansion in our Nation's history. He voted for a nuclear freeze and voted against the gulf war resolution.

Mr. President, I have also admired Senator HATFIELD's unwavering opposition to the death penalty, even in a time when increasing numbers of political leaders are suggesting that capital punishment is the solution to crime.

Senator HATFIELD once reminded us that, "shallow symbols like the death penalty, only serve to further pummel the battered fabric of our decreasingly civilized society."

It has been an honor to stand with Senator HATFIELD, voting against measures that would expand this barbaric practice of executions.

Mr. President, I spoke moments ago of Senator HATFIELD as a man of fiscal prudence. He demonstrated his fidelity to that principle when he withstood great pressure and voted against a proposed balanced budget amendment to the Constitution, asserting that the amendment was nothing more than a procedural gimmick. Senator HATFIELD recognized that Congress must accept its responsibility to use its power to reduce spending and balance the budget.

Mr. President, when Senator HATFIELD announced his retirement, he said, "I felt the call to public service and believed in the positive impact government can have on the lives of people." For 40 years, MARK HATFIELD has been an example of a public servant who obeys the dictates of his conscience, who acts with the common good foremost in his mind, and who has tried to have a positive impact.

It truly has been an honor, Senator HATFIELD, one for which I thank you.

TRIBUTE TO SENATOR HEFLIN

Mr. FEINGOLD. Mr. President, I rise today to pay tribute to the senior Senator from Alabama, a dedicated public servant, a respected lawmaker and a man I am proud to call my colleague, HOWELL HEFLIN.

Mr. President, in three U.S. Senate terms, HOWELL HEFLIN has distinguished himself in many ways, and perhaps the most prominent has been in the area of judicial reform. He has always trusted and respected the American judicial system.

His passion for the highest standards in our judicial system was kindled long before HOWELL HEFLIN joined the U.S. Senate in 1978. During his tenure as Chief Justice of the Alabama State Supreme Court, he was recognized as one of the Nation's leaders on judicial reform.

He was subsequently selected as this country's outstanding appellate jurist in 1975 and served as chairman of the National Conference of Chief Justices in 1976 and 1977.

I have worked alongside Senator HEFLIN on the Judiciary Committee and, in particular, on the Subcommittee on Administrative Oversight and the Courts. Throughout that association, I have appreciated his intelligence and his wisdom.

I will miss him, as, I am sure, will all his colleagues in the U.S. Senate, as he retires, I am told, to Tuscumbia, AL. I wish him all the best as he takes his leave.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, September 27, the Federal debt stood at $5,199,074,786,599.17.

One year ago, September 27, 1995, the Federal debt stood at $4,955,603,000,000.

Five years ago, September 27, 1991, the Federal debt stood at $3,638,661,000,000.

Twenty-five years ago, September 27, 1971, the Federal debt stood at $415,658,000,000. This reflects an increase of more than $4 trillion—$4,783,416,786,599.17—during the 25 years from 1971 to 1996.

TRIBUTE TO SENATOR JAMES EXON

Mr. DODD. Mr. President, I would like to take a few moments today to pay tribute to our departing colleague, Senator JIM EXON.

JIM EXON's retirement brings to a close 26 years of distinguished public service to the people of Nebraska. In Nebraska's proud political tradition, JIM EXON may be its most celebrated figure having served that State for more than a quarter century—8 years as Governor and 18 as Senator.

Over the past 16 years of my Senate tenure, I've had the privilege to serve alongside JIM EXON, and I will sorely miss his spirit of fairness, his sense of humor and his fiery independent streak.

Mr. President, one of the most stricken features of the U.S. Senate is the wonderful river of diversity that flows through this Chamber. Case in point; JIM EXON and CHRIS DODD.

JIM EXON and I come from far different backgrounds. We were born and raised in different parts of the country, he from South Dakota and Nebraska, I from Connecticut. My training is as lawyer, his as a small businessman. And of course we focus on many different issues here in the Senate, he on rural, agricultural and trade issues, me on children's, banking and foreign policy issues.

But that level of diversity is what makes this body and this Nation such a wonderful place. Ultimately, our recognition and appreciation for those with different backgrounds and divergent views is what bring such greatness to America.

It is in that spirit that while serving on the Budget Committee with JIM EXON I have come to truly cherish his small-town, common sense, Midwestern values.

If any trait best epitomizes JIM EXON, it is his overriding desire to make the Federal Government live within its means. Democrats are often unfairly stereotyped as politicians who never met a spending program they didn't like. While I find that characterization unfair, I can guarantee one thing, no one will ever say it about JIM EXON.

JIM EXON is certainly no Johnny-come-lately to the issue of deficit reduction. His adherence to the notion of fiscal responsibility has characterized his career, from his days as a small businessman to the Nebraska Governor's Mansion and the U.S. Senate.

And, while I may have disagreed with his long-standing support for the balanced budget amendment, I've always deeply respected and appreciated his tireless efforts to trim the Federal deficit.

Because, Senator EXON always rallies behind ideas and beliefs and not partisan politics.

He has always been a champion of a strong military force. When not fighting to keep our military preparedness at the highest level, he worked to lessen American military dependance on foreign suppliers and stop foreign takeovers that threaten national security.

Yet, at the same time he advocated a strong military, he was working tirelessly to end U.S. nuclear testing. JIM EXON can take particular pride that due in part to his efforts, the United States signed on to a Comprehensive Nuclear Test Ban Treaty recently at the United Nations in New York. His unyielding pugnacity in bringing this issue to the fore deserves the appreciation of every American.

But, for all his legislative accomplishments his most enduring legacy may be his willingness to stretch out his hand in the name of compromise and bipartisanship. As the National Journal noted, JIM EXON's instincts run toward conciliation.

I fear that his intense dislike for conflict, partisan politics, and as he put it, the ever-increasing vicious polarization of the electorate, has hastened his departure from the Senate

If anything, this is a body that must embody the spirit of men like JIM EXON and not turn them away from the legislative process.

But, Senator EXON has made the decision to return to his beloved Nebraska with his wife of 53 years, Patricia, and I join all my colleagues in wishing him the best of luck in his retirement.

Most of all, and I'm sure this is the way JIM would want it, I wish best of his luck to his beloved St. Louis Cardinals, champions of the National League Central division. I know he looks forward to the end of the 104th Congress so he can get out to the ballpark and cheer on the Cards.

Mr. President, for almost two decades JIM EXON's dedication, sincerity, and commitment to public service have graced these Halls. I join all my colleagues in saying he will be sorely missed.

OCEAN SHIPPING REFORM

Mr. PRESSLER. Mr. President, as we bring the 104th Congress to a close, I want to provide an update on our progress to enact ocean shipping reform legislation.

Last October, I introduced S. 1356, a companion bill to H.R. 2149. I did so to begin Senate discussion of this important reform proposal. In November, I chaired a Committee on Commerce, Science, and Transportation hearing on the bill. The hearing revealed numerous issues affecting all segments of the liner ocean shipping industry that required further consideration. On July 18, 1996, I placed a proposed amendment to S. 1356 in the RECORD for public review and comment. After several additional meetings with affected segments of the ocean shipping industry, we have made further progress in crafting acceptable legislation.

Today I will ask to have printed in the RECORD a revised version of that amendment to S. 1356. While there are a few issues requiring additional work, we have made substantial progress toward producing a bill that will gain broad support within the affected industries and the Congress.

I am pleased to be joined by Senators GORTON, LOTT, HUTCHISON, SNOWE, INOUYE, EXON, and BREAUX as cosponsors in this amendment. This bipartisan approach demonstrates just how serious we are about achieving meaningful reform.

We have run out of time in the 104th Congress to complete this effort. However, I intend to introduce ocean shipping reform legislation early in the 105th Congress. With the support of my fellow Commerce Committee members and other Senators, we can pass ocean shipping reform legislation next year.

Mr. President, 95 percent of U.S. foreign commerce is transported via ocean shipping. Approximately half of this amount is shipped in bulk form, oil, grain, chemicals, and so forth, on an unregulated vessel charter basis. The remainder is shipped by container on liner vessels, regularly scheduled service under the Shipping Act of 1984, as regulated by the Federal Maritime Commission [FMC]. As the international liner shipping trade has evolved since 1984, many industry segments have requested changes in the Shipping Act of 1984 to keep pace with this evolution.

My amendment, the International Ocean Shipping Act of 1996, would improve the Shipping Act of 1984 in several key areas. First, it would eliminate the filing of common carrier tariffs with the Federal Government. Instead of requiring Government approval, tariffs would become effective upon publication through private systems. My amendment also would increase tariff rate flexibility by easing restrictions on tariff rate changes and independent action by conference carriers.

Second, it would allow for greater flexibility in service contracting by shippers and ocean common carriers. The amendment would allow individual ocean common carriers and shippers to negotiate confidential service contracts.

Finally, responsibility for enforcing U.S. ocean shipping laws would be shifted to the Surface Transportation Board, which would be renamed the Intermodal Transportation Board. The Federal Maritime Commission would be terminated at the end of fiscal year 1998. A single independent agency would then administer domestic surface, rail, and water transportation and international ocean transportation regulations. The Government would catch up to the carriers and shippers, who are already thinking intermodally.

Mr. President, I ask unanimous consent that my proposed amendment to S. 1356 be printed in the RECORD at the end of my statement.

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

(See exhibit 1).

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

AMENDMENT NO. —

(Purpose: To amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States imports and exports, and for other purposes)

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Ocean Shipping Act of 1996".

SEC. 2. EFFECTIVE DATE.

Except as otherwise expressly provided in this Act, this Act and the amendments made by this Act take effect on October 1, 1997.

TITLE I—AMENDMENTS TO THE SHIPPING ACT OF 1984

SEC. 101. PURPOSE.

Section 2 of the Shipping Act of 1984 (46 U.S.C. App. 1701) is amended by—

(1) striking "and" after the semicolon in paragraph (2);

(2) striking "needs." in paragraph (3) and inserting "needs; and"; and

(3) adding at the end thereof the following:

"(4) to promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.".

SEC. 102. DEFINITIONS.

(a) IN GENERAL.—Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended by—

(1) striking paragraph (5) and redesignating paragraph (4) as paragraph (5);

(2) inserting after paragraph (3) the following:

"(4) 'Board' means the Intermodal Transportation Board.";

(3) striking "the government under whose registry the vessels of the carrier operate;" in paragraph (8) and inserting "a government;";

(4) striking paragraph (9) and inserting the following:

"(9) 'deferred rebate' means a return by a common carrier of any portion of freight money to a shipper as a consideration for that shipper giving all, or any portion, of its shipments to that or any other common carrier over a fixed period of time, the payment of which is deferred beyond the completion of service for which it is paid, and is made only if the shipper has agreed to make a further shipment or shipments with that or any other common carrier.";

(5) striking "in an unfinished or semi-finished state that require special handling moving in lot sizes too large for a container" in paragraph (11);

(6) striking "paper board in rolls, and paper in rolls." in paragraph (11) and inserting "paper and paper board in rolls or in pallet or skid-sized sheets.";

(7) striking "conference, other than a service contractor contract based upon time volume rates," in paragraph (14), and inserting "conference";

(8) by striking "conference." in paragraph (14) and inserting "conference and the contract provides for a deferred rebate arrangement.";

(9) striking paragraph (17) and redesignating paragraphs (18) through (27) as paragraphs (17) through (26), respectively;

(10) striking paragraph (18), as redesignated, and inserting the following:

"(18) 'ocean freight forwarder' means a person that—

"(A)(i) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

"(ii) processes the documentation or performs related activities incident to those shipments; or

"(B) acts as a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.";

(11) striking paragraph (20), as redesignated and inserting the following:

"(20) 'service contract' means a written contract, other than a bill of lading or a receipt, between one or more shippers and an individual ocean common carrier or an agreement between or among ocean common carriers in which the shipper or shippers makes a commitment to provide a certain volume or portion of cargo over a fixed time period, and the ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of nonperformance on the part of any party.";

(12) striking paragraph (22), as redesignated, and inserting the following:

"(22) 'shipper' means:

"(A) a cargo owner;

"(B) the person for whose account the ocean transportation is provided;

"(C) the person to whom delivery is to be made;

"(D) a shippers' association; or

"(E) an ocean freight forwarder, as defined in paragraph (18)(B) of this section, that accepts responsibility for payment of the ocean freight.".

(b) SPECIAL EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of enactment, except that the amendments made by paragraphs (1) and (2) take effect on October 1, 1998.

SEC. 103. AGREEMENTS WITHIN THE SCOPE OF THE ACT.

Section 4(a) of the Shipping Act of 1984 (46 U.S.C. App. 1703(a)) is amended by—

(1) striking "operators or non-vessel operating common carriers;" in paragraph (5) and inserting "operators;";

(2) striking "and" in paragraph (6) and inserting "or"; and

(3) striking paragraph (7) and inserting the following:

"(7) discuss and agree upon any matter related to service contracts.".

SEC. 104. AGREEMENTS.

Section 5(b)(8) of the Shipping Act of 1984 (46 U.S.C. App. 1704) is amended to read as follows:

"(8) provide that any member of the conference may take independent action on any rate or service item upon not more than 5 calendar days' notice to the conference and that, except for exempt commodities not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item. A conference agreement may not require a member of the agreement to disclose the existence of an existing individual service contract under section 8(c)(3) of this Act or a negotiation on an individual service contract under section 8(c)(3) of this Act. A conference agreement may not prohibit members of the agreement from negotiating and entering into individual service contracts under section 8(c)(3) of this Act.".

SEC. 105. EXEMPTION FROM ANTITRUST LAWS.

(a) IN GENERAL.—Section 7 of the Shipping Act of 1984 (46 U.S.C. App. 1706) is amended by—

(1) inserting "or publication" in paragraph (2) of subsection (a) after "filing";

(2) inserting "Federal Maritime" before "Commission" in paragraph (6) of subsection (a);

(3) striking "or" at the end of subsection (b)(2);

(4) striking "States." at the end of subsection (b)(5) and inserting "States; or"; and

(5) adding at the end of subsection (b) the following: "(4) to any loyalty contract.".

(b) SPECIAL EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of enactment except the amendment made by paragraph (2) of subsection (a) takes effect on October 1, 1998.

SEC. 106. TARIFFS.

Section 8 of the Shipping Act of 1984 (46 U.S.C. App. 1707) is amended by—

(1) inserting "new assembled motor vehicles," after "scrap," in subsection (a)(1);

(2) striking "file with the Commission, and" in subsection (a)(1);

(3) striking "inspection," in subsection (a)(1) and inserting "inspection in an automated tariff system approved by the Board,";

(4) inserting before "However," in subsection (a)(1) the following: "An ocean freight forwarder described in section 3(18)(B) of this Act that is not, or whose assets are not, directly or indirectly, owned or controlled by an ocean common carrier is exempt from the requirements of this subsection.";

(5) striking "tariff filings" in subsection (a)(1) and inserting "tariffs";

(6) striking "loyalty contract," in subsection (a)(1)(E);

(7) striking paragraph (2) of subsection (a) and inserting the following:

"(2) Tariffs shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote terminals, and a reasonable charge may be assessed for such access. No charge may be assessed for access by a Federal agency.";

(8) striking subsection (c) and inserting the following:

"(c) SERVICE CONTRACTS.—

"(1) IN GENERAL.—An individual ocean common carriers or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of this Act. The exclusive remedy for a breach of a contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree.

"(2) AGREEMENT SERVICE CONTRACTS.—Except for service contracts dealing with bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste, each contract entered into under this subsection by an agreement shall be filed with the Commission, and at the same time, a concise statement of its essential terms shall be filed with the Commission and made available to the general public in tariff format, and those essential terms shall be available to all shippers similarly situated. The essential terms shall include—

"(A) the origin and destination port ranges in the case of port-to-port movements, and the origin and destination geographic areas in the case of through intermodal movements;

"(B) the commodity or commodities involved;

"(C) the minimum volume;

"(D) the line-haul rate;

"(E) the duration;

"(F) service commitments; and

"(G) the liquidated damages for nonperformance, if any.

"(3) INDIVIDUAL SERVICE CONTRACTS.—Notwithstanding subsection (a) of this section and paragraph (2) of this subsection, service contracts entered into under this subsection between one or more shippers and an individual ocean common carrier may be made on a confidential basis. Service contracts entered into under this subsection shall be retained by the parties of the contract for 3 years subsequent to the expiration of the contract.";

(9) striking "30 days after filing with the Commission" in the first sentence of subsection (d) and inserting "21 calendar days after publication";

(10) striking "30" in the second sentence of subsection (d) and inserting "21"; and

(11) striking "and filing with the Commission" in the last sentence of subsection (d);

(12) striking subsection (e) and inserting the following:

"(e) MARINE TERMINAL OPERATOR SCHEDULES.—A marine terminal operator may make available to the public a schedule of rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public shall be enforceable as an implied contract, subject to section 10 of this Act, without proof of actual knowledge of its provisions."; and

(13) striking subsection (f) and inserting the following:

"(f) REGULATIONS.—The Commission shall by regulation prescribe the requirements for automated tariff systems established under this section and shall approve any automated tariff system that complies with those requirements. The Commission shall disapprove or, after periodic review, cancel any automated tariff system that fails to meet the requirements established under this section. The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published.".

SEC. 107. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

Section 502 of the High Seas Driftnet Fisheries Enforcement Act (46 U.S.C. App. 1707a) is repealed.

SEC. 108. CONTROLLED CARRIERS.

Section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708) is amended by—

(1) striking "filed with the Commission" in the first sentence of subsection (a) and inserting a comma and "or charge or assess rates";

(2) striking "or maintain" in the first sentence of subsection (a) and inserting "maintain, or enforce";

(3) striking "disapprove" in the third sentence of subsection (a) and inserting "prohibit the publication or use of"; and

(4) striking "filed by a controlled carrier that have been rejected, suspended, or disapproved by the Commission" in the last sentence of subsection (a) and inserting "that have been suspended or prohibited by the Board";

(5) striking "may take into account appropriate factors including, but not limited to, whether—" in subsection (b) and inserting "shall take into account whether";

(6) striking "(1)" in paragraph (1) of subsection (b) and resetting the text of paragraph (1) as a full measure continuation of the matter preceding it;

(7) striking "filed" each place it appears in subsection (b) and inserting "published or assessed";

(8) striking "similar trade;" in subsection (b) and inserting "similar trade. The Board may also take into account other appropriate factors, including, but not limited to, whether—";

(9) redesignating paragraphs (2), (3), and (4) of subsection (b) as paragraphs (1), (2), and (3), respectively; and

(10) striking "filing with the Commission" in subsection (c) and inserting "publication";

(11) striking "DISAPPROVAL.—" in subsection (d) and inserting "PROHIBITION OF RATES.—Within 120 days after the receipt of information requested by the Board under this section, the Board shall determine whether the rates, charges, classifications, rules, or regulations of a controlled carrier may be unjust and unreasonable." ;

(12) striking "filed" in subsection (d) and inserting "published or assessed";

(13) striking "may" in the second sentence of subsection (d), as amended by paragraph (11) of this section, and inserting "shall";

(14) striking "disapproved" in such sentence and inserting "prohibited";

(15) striking "60" in subsection (d) and inserting "30";

(16) inserting "controlled" after "affected" in subsection (d);

(17) striking "file" in subsection (d) and inserting "publish".

(18) striking "disapproval" in subsection (e) and inserting "prohibition";

(19) inserting "or" after the semicolon in subsection (f)(1);

(20) striking paragraphs (2), (3), and (4) of subsection (f); and

(21) redesignating paragraph (5) of subsection (f) as paragraph (2).

SEC. 109. PROHIBITED ACTS.

(a) Section 10(b) of the Shipping Act of 1984 (46 U.S.C. App. 1709(b)) is amended by—

(1) striking paragraphs (1) through (3);

(2) redesignating paragraph (4) as paragraph (1);

(3) inserting after paragraph (1), as redesignated, the following:

"(2) provide service in the liner trade that—

'(A) is not in accordance with the rates contained in a tariff published or a service contract entered into under section 8 of this Act unless excepted or exempted under section 8(a)(1) or 16 of this Act; or

"(B) is under a tariff or service contract which has been suspended or prohibited by the Board under section 9 or 11a of this Act;";

(4) redesignating paragraphs (5) through (8) as paragraphs (3) through (6), respectively;

(5) striking paragraph (9) and redesignating paragraphs (10) through (16) as paragraphs (7) through (13), respectively;

(6) in paragraph (7), as redesignated, inserting "except for service contracts," before "demand,";

(7) in paragraph (9), as redesignated —

(A) inserting "port, class or type of shipper, ocean freight forwarder," after "locality,"; and

(B) inserting "except for service contracts," after "deal or,";

(8) striking "a non-vessel-operating common carrier" each place it appears in paragraph (11) and paragraph (12), as redesignated, and inserting "an ocean freight forwarder";

(9) striking "sections 8 and 23" in paragraph (11) and paragraph (12), as redesignated, and inserting "section 19";

(10) striking "a tariff and" in paragraphs (11) and (12), as redesignated;

(11) striking "paragraph (16)" in the matter appearing after paragraph (13), as redesignated, and inserting "paragraph (13)"; and

(12) inserting "the Commission," after "United States," in such matter.

(b) Section 10(c)(5) of the Shipping Act of 1984(46 U.S.C. App. 1709(c)(5)) is amended by inserting "as defined by section 3(18)(A) of this Act," before "or limit".

(c) Section 10(d)(3) of the Shipping Act of 1984 (46 U.S.C. App. 1709(d)(3)) is amended by striking "subsection (b)(11), (12), and (16) of this section apply to" and inserting "subsection (b)(8), (9), and (13) of this section apply to ocean freight forwarders and".

SEC. 110. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.

Section 11(g) of the Shipping Act of 1984 (46 U.S.C. App. 1710(g)) is amended by—

(1) striking "10(b)(5) or (7)" and inserting "10(b)(3)"; and

(2) striking "10(b)(6)(A) or (B)" and inserting "10(b)(4).".

SEC. 111. DEFINITIONS.

Section 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a) is amended by—

(1) striking "non-vessel-operating common carrier," in subsection (a)(1) and inserting "ocean freight forwarder,";

(2) striking "non-vessel-operating common carrier operations," in subsection (a)(4);

(3) striking "filed with the Commission," in subsection (e)(1)(B) and inserting "and service contracts,";

(4) inserting "and service contracts" after "tariffs" the second place it appears in subsection (e)(1)(B); and

(5) striking "13(b)(5) of the Shipping Act of 1984 (46 App. U.S.C. 1712(b)(5))" in subsection (h) and inserting "13(b)(3) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)(3))".

SEC. 112. SUBPOENAS AND DISCOVERY.

Section 12(a)(2) of the Shipping Act of 1984 (46 U.S.C. App. 1711 (a)(2)) is amended by striking "evidence." and inserting "evidence, including individual service contracts described in section 8(c)(3) of this Act.".

SEC. 113. PENALTIES.

(a) Section 13(a) of the Shipping Act of 1984 (46 U.S.C. App. 1712(a)) is amended by adding at the end thereof the following: "The amount of any penalty imposed upon a common carrier under this subsection shall constitute a lien upon the vessels of the common carrier and any such vessel may be libeled therefor in the district court of the United States for the district in which it may be found.".

(b) Section 13(b) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)) is amended by—

(1) striking paragraphs (1) through (3) and redesignating paragraphs (4) through (6) as paragraphs (2) through (4);

(2) inserting before paragraph (2), as redesignated, the following:

"(1) If the Commission finds, after notice and an opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Commission may request that the Secretary of the Treasury refuse or revoke any clearance required for a vessel operated by that common carrier. Upon request by the Commission, the Secretary of the Treasury shall, with respect to the vessel concerned, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)"; and

(3) striking "penalties authorized under paragraphs (1), (2), and (3) of this subsection." in paragraph (3), as redesignated, and inserting "penalty authorized under paragraph (1) of this subsection.".

(c) Section 13(f)(1) of the Shipping Act of 1984 (46 U.S.C. App. 1712(f)(1)) is amended by striking "section 10(a)(1), (b)(1), or (b)(4)" and inserting "section 10(a)(1) or 10(b)(1).".

SEC. 114. REPORTS AND CERTIFICATES.

Section 15 of the Shipping Act of 1984 (46 U.S.C. App. 1714) is amended by—

(1) striking "and certificates" in the section heading;

(2) striking "(a) REPORTS.—" in the subsection heading; and

(3) striking subsection (b).

SEC. 115. EXEMPTIONS.

Section 16 of the Shipping Act of 1984 (46 U.S.C. App. 1715) is amended by striking "substantially impair effective regulation by the Commission, be unjustly discriminatory, result in substantial reduction in competition, or be detrimental to commerce." and inserting "result in substantial reduction in competition or be detrimental to commerce.".

SEC. 116. AGENCY REPORTS AND ADVISORY COMMISSION.

Section 18 of the Shipping Act of 1984 (46 U.S.C. App. 1717) is repealed.

SEC. 117. OCEAN FREIGHT FORWARDERS.

Section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1718) is amended by—

(1) striking subsection (a) and inserting the following:

"(a) LICENSE.—No person in the United States may act as an ocean freight forwarder unless that person holds a license issued by the Commission. The Commission shall issue a forwarder's license to any person that the Commission determines to be qualified by experience and character to act as an ocean freight forwarder.";

(2) redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(3) inserting after subsection (a) the following:

"(b) FINANCIAL RESPONSIBILITY.—

"(1) No person may act as an ocean freight forwarder unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

"(2) A bond, insurance, or other surety obtained pursuant to this section—

"(A) shall be available to pay any judgment for damages against an ocean freight forwarder arising from its transportation-related activities under section 3(18) of this Act, or any order for reparation issued pursuant to section 11 or 14 of this Act, or any penalty assessed pursuant to section 13 of this Act; and

"(B) may be available to pay any claim against an ocean freight forwarder arising from its transportation-related activities under section 3(18) of this Act that is deemed valid by the surety company after providing the ocean freight forwarder the opportunity to address the validity of the claim.

"(3) An ocean freight forwarder not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.";

(4) striking "a bond in accordance with subsection (a)(2)" in subsection (c), as redesignated, and inserting "a bond, proof of insurance, or other surety in accordance with subsection (b)(1)";

(5) striking "forwarder" in paragraph (1) of subsection (e) and inserting "forwarder, as described in section 3(18),";

(6) striking "license" in paragraph (1) of subsection (e) and inserting "license, if required by subsection (a),";

(7) striking paragraph (3) of subsection (e), as redesignated, and redesignating paragraph (4) as paragraph (3); and

(8) adding at the end of subsection (e), as redesignated, the following:

"(4) No conference or group of 2 or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to an ocean freight forwarder, as defined in section 3(18)(A) of this Act, may—

"(A) deny to any member of the conference or group the right, upon notice of not more than 5 calendar days, to take independent action on any level of compensation paid to an ocean freight forwarder, as so defined; or

"(B) agree to limit the payment of compensation to an ocean freight forwarder, as so defined, to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a tariff and which are assessed against the cargo on which the forwarding services are provided.".

SEC. 118. CONTRACTS, AGREEMENTS, AND LICENSES PRIOR TO SHIPPING LEGISLATION.

Section 20 of the Shipping Act of 1984 (46 U.S.C. App. 1719) is amended by—

(1) striking subsection (d) and inserting the following:

"(d) EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.—All agreements, contracts, modifications, and exemptions previously issued, approved, or effective under the Shipping Act, 1916, or the Shipping Act of 1984 shall continue in force and effect as if issued or effective under this Act, as amended by the International Ocean Shipping Act of 1996, and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under this Act, as amended by the International Ocean Shipping Act of 1996.";

(2) inserting the following at the end of subsection (e):

"(3) The International Ocean Shipping Act of 1996 shall not affect any suit—

"(A) filed before the effective date of that Act, or

"(B) with respect to claims arising out of conduct engaged in before the effective date of that Act filed within 1 year after the effective date of that Act.

"(4) Regulations issued by the Federal Maritime Commission shall remain in force and effect where not inconsistent with this Act, as amended by the International Ocean Shipping Act of 1996.".

SEC. 119. SURETY FOR NON-VESSEL-OPERATING COMMON CARRIERS.

Section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721) is repealed.

SEC. 120. REPLACEMENT OF FEDERAL MARITIME COMMISSION WITH INTERMODAL TRANSPORTATION BOARD.

Effective October 1, 1998, the Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.) is amended by—

(1) striking "Federal Maritime Commission" each place it appears, except in section 20, and inserting "Intermodal Transportation Board";

(2) striking "Commission" each place it appears (including chapter and section headings), except in sections 7(a)(6) and 20, and inserting "Board"; and

(3) striking "Commission's" each place it appears and inserting "Board's".

TITLE II—TRANSFER OF FUNCTIONS OF THE FEDERAL MARITIME COMMISSION TO THE INTERMODAL TRANSPORTATION BOARD

SEC. 201. TRANSFER TO THE INTERMODAL TRANSPORTATION BOARD.

(a) CHANGE OF NAME OF SURFACE TRANSPORTATION BOARD TO INTERMODAL TRANSPORTATION BOARD.—The ICC Termination Act of 1995 (Pub. L. 104-88) is amended by striking "Surface Transportation Board" each place it appears and inserting "Intermodal Transportation Board".

(b) FUNCTIONS OF THE FEDERAL MARITIME COMMISSION.—All functions, powers and duties vested in the Federal Maritime Commission shall be administered by the Intermodal Transportation Board.

(c) REGULATIONS.—No later than July 1, 1997, the Federal Maritime Commission, in consultation with the Surface Transportation Board, shall prescribe final regulations to implement the changes made by this Act.

(d) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1997.—There is authorized to be appropriated to the Federal Maritime Commission, $19,000,000 for fiscal year 1997.

(e) COMMISSIONERS OF THE FEDERAL MARITIME COMMISSION.—Subject to the political party restrictions of section 701(b) of title 49, United States Code, the 2 Commissioners of the Federal Maritime Commission whose terms have the latest expiration dates shall become members of the Intermodal Transportation Board. Of the 2 members of the Intermodal Transportation Board first appointed under this subsection, the one with the first expiring term (as a member of the Federal Maritime Commission) shall serve for a term ending December 31, 2000, and the other shall serve for a term ending December 31, 2002. Effective October 1, 1998, the right of any Federal Maritime Commission commissioner other than those designated under this subsection to remain in office is terminated.

(f) MEMBERSHIP OF THE INTERMODAL TRANSPORTATION BOARD.—

(1) NUMBER OF MEMBERS.—Section 701(b)(1) of title 49, United States Code, is amended by—

(A) striking "3 members" and inserting "5 members"; and

(B) striking "2 members" and inserting "3 members".

(2) QUALIFICATIONS.—Section 701(b)(2) of title 49, United States Code, is amended by inserting after "sector." the following: "Effective October 1, 1998, at least 2 members shall be individuals with—

"(A) professional standing and demonstrated knowledge in the fields of maritime transportation or its regulation; or

"(B) professional or business experience in the maritime transportation private sector, including marine terminal or public port operation.".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998, except as otherwise provided.

TITLE III—AMENDMENTS TO OTHER SHIPPING AND MARITIME LAWS

SEC. 301. AMENDMENTS TO SECTION 19 OF THE MERCHANT MARINE ACT, 1920.

(a) IN GENERAL.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876) is amended by—

(1) striking "Federal Maritime Commission" each place it appears and inserting "Intermodal Transportation Board";

(2) inserting "ocean freight" after "solicitations," in subsection (1)(b);

(3) striking "non-vessel-operating common carrier operations," in subsection (1)(b);

(4) striking "methods or practices" and inserting "methods, pricing practices, or other practices" in subsection (1)(b);

(5) striking "tariffs filed with the Commission" in subsection (9)(b) and inserting "tariffs and service contracts"; and

(6) striking "Commission" each place it appears (including the heading) and inserting "Board".

(b) SPECIAL EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of enactment of this Act, except that the amendments made by paragraphs (1) and (7) of that subsection take effect on October 1, 1998.

SEC. 302. TECHNICAL CORRECTIONS.

(a) PUBLIC LAW 89-777.—

(1) The Act of November 6, 1966, (Pub. L. 89-777; 80 Stat. 1356; 46 U.S.C. App. 817 et seq.) is amended by—

(A) striking "Shipping Act, 1916" in section 2(d) and inserting "Shipping Act of 1984";

(B) striking "Shipping Act, 1916" in section 3(d) and inserting "Shipping Act of 1984";

(C) striking "Federal Maritime Commission" each place it appears and inserting "Intermodal Transportation Board"; and

(D) striking "Commission" each place it appears and inserting "Board".

(2) The amendments made by subparagraphs (A) and (B) of paragraph (1) take effect on September 30, 1996. The amendments made by subparagraphs (C) and (D) of paragraph (1) take effect on October 1, 1998.

(b) TITLE 28, UNITED STATES CODE, AND CROSS REFERENCE.—

(1) Section 2341 of title 28, United States Code, is amended by—

(A) striking "Commission, the Federal Maritime Commission," in paragraph (3)(A); and

(B) striking "Surface" in paragraph (3)(E) and inserting "Intermodal".

(2) Section 2342 of such title is amended by—

(A) striking paragraph (3) and inserting the following:

"(3) all rules, regulations, or final orders of the Secretary of Transportation issued pursuant to section 2, 9, 37, 41, or 43 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, or 841a) or pursuant to part B or C of subtitle IV of title 49 (49 U.S.C. 13101 et seq. or 15101 et seq.);"; and

(B) striking paragraph (5) and inserting the following:

"(5) all rules, regulations, or final orders of the Intermodal Transportation Board—

"(A) made reviewable by section 2321 of this title; or

"(B) pursuant to—

"(i) section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876);

"(ii) section 14 or 17 of the Shipping Act of 1984 (46 U.S.C. App. 1713 or 1716); or

"(iii) section 2(d) or 3(d) of the Act of November 6, 1966 (46 U.S.C. App. 817d(d) or 817e(d));".

(3) Section 10002(i) of the Foreign Shipping Practices Act of 1988 (46 U.S.C. 1710a(i)) is amended by striking "2342(3)(B)" and inserting "2342(5)(B)".

(c) TARIFF ACT OF 1930.—Section 641(i) of the Tariff Act of 1930 (19 U.S.C. 1641) is repealed.

THE 100TH ANNIVERSARY OF OAKWOOD COLLEGE

Mr. HEFLIN. Mr. President, I want to congratulate Oakwood College as it celebrates its centennial year. Located in a beautiful setting on 1,185 acres of prime land in the northwest region of Huntsville, AL, Oakwood College was founded in 1896. It is a historically black liberal arts college operated by the Seventh-day Adventist Church.

The school enjoys a rich mix of more than 1,600 students drawn from many States, nations, experiences, and outlooks on life. The college fosters a nurturing environment that has enabled students to develop self-esteem and achieve academic success, often for the first time.

A caring, supportive faculty of over 90 members—57 percent of whom hold doctorates—is responsible for Oakwood's proven ability to meet its students' academic needs.

Oakwood's keen sense of community is reflected in its direct involvement with citizens of the Tennessee Valley through various campus initiatives and services. These include a speakers bureau, adult degree completion program, student-manned Volunteer Action League, a 25,000 watt radio station, annual United Negro College Fund banquet, and homecoming. Each year, the Oakwood homecoming events bring over 10,000 alumni and friends of the college to Huntsville.

Oakwood is accredited by the Southern Association of Colleges and Schools, and offers associate and bachelor's degrees in more than 35 areas of concentration.

Oakwood has much to celebrate during its centennial year. Enrollment is higher than ever, graduates are achieving success at levels higher than ever before, and the campus is beautiful and its atmosphere inviting. I congratulate Oakwood College on its 100th anniversary and commend its administration, faculty, and students on all their accomplishments and academic success.

RECOGNIZING THE HISTORIC TREATY BETWEEN HUNGARY AND ROMANIA

Mr. MOYNIHAN. Mr. President, I rise today to bring attention to a historic event in Central Europe that, given the world focus on Bosnia, may have been overlooked, the signing of a treaty this month making the end of a rivalry between Hungary and Romania that dates back at least 1,000 years.

Our admirable Ambassadors, Donald M. Blinken in Hungary, and Alfred H. Moses in Romania, have written an article that nicely sums up the significance of this agreement in securing a stable Central Europe and protecting the rights of ethnic minorities. It deserves as wide an audience as possible.

I ask unanimous consent that the full text of the attached article from the Washington Post be placed in the RECORD at this point.

There being on objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 19, 1996]

LOOKING BEYOND BOSNIA

(By Donald M. Blinken and Alfred H. Moses)

The attention devoted to events in Bosnia overlooks other important and positive developments in the region which, in history's ledger, could prove equally important. This week Hungary and Romania signed a basic bilateral treaty marking the end to centuries of contention. The treaty has the same significance to Central Europe as the Franco-German reconciliation had to Western Europe. Similar treaties have been concluded between longtime rivals Slovakia and Hungary and between the former Yogoslav Republic of Macedonia and Greece.

Historic rivalry between Hungary and Romania dates back at least a thousand years to the Magyar migrations from Central Asia. This led to Hungarian domination of the Carpathian basin, including modern-day Transylvania now in Romania, which was part of Hungary until 1919, when the Treaty of Trianon put an end to 300 years of Austro-Hungarian dominance in the region. Unfortunately, Trianon did not end the rivalry, and at the end of World War II, Budapest found itself occupied by Romanian troops for the second time in the century.

The people of Romania and Hungary liberated themselves from communism seven years ago. But their rivalry remained. Now, together, they are engaged in one final act of liberation, this time from the unresolved legacies of their own tragic and angry past.

The heart of the treaty also is the heart of post-Cold War Europe's security challenges: how to reconcile the rights and responsibilities of minorities with majorities in a part of the world where peoples and borders do not match.

Bosnia is a brutal reminder of the power of these ethnic and nationalistic hatreds. It shows how dangerous this power is to peace not just in the Balkans but to Europe as a whole, and how important it is to defuse ethnic grievances before they explode.

The basic treaty obligates both countries to protect the civil liberties and cultural identity of their national minorities. Education at all levels is guaranteed by the state in the minority's native tongue, as is the right to use one's historic language in administrative and judicial proceedings in areas of minority concentration. The same is true of road signs, print and broadcast media and almost every other aspect of communal life.

The test, of course, will come with implementation, but the overwhelming support for the treaty in both countries is reason for optimism. Moreover, both sides are committed because both know the treaty clears an important hurdle to an even more historic goal: integration with the West.

President Clinton's January 1994 decision, embraced by our allies, to open NATO to new members and new partners, together with efforts by the European Union to enlarge eastward, has given every nation of Central Europe an incentive to strengthen democracy and improve relations with its neighbors.

Both Hungary and Romania have been active participants in the Partnership for Peace, the innovative U.S. initiative that has as one of its purposes to prepare NATO aspirants for eventual membership. Romania was the first to join. And Hungary hosts U.S. forces engaged in Bosnia. Troops from both countries participate in joint Partnership for Peace exercises on the territory of the other and are serving with the implementation force in Bosnia.

NATO and the European Union have made it clear that states aspiring to membership that have unresolved border disputes or are unable to respect international norms on the treatment of minorities "need not apply."

This clear message moved Hungary and Romania to look beyond traditional boundaries and historical divisions toward a new vision of a secure and prosperous continent no longer mired in the conflicts of the past. In this spirit, both nations have committed in the basic treaty to support NATO and EU membership for the other.

By embracing countries in Central Europe that show the will and the means to contribute to the stability and prosperity of the continent as a whole, the EU and NATO can help bring an end to historic enmities based on ethnic, cultural and religious differences, including the historic divide between Catholic West and Orthodox East. The example of Hungary and Romania may point to the end of a millennium of Central European history marked by perpetual conflict and human tragedies past counting.

AMERICA'S FUTURE BIRTHDAY: 50 YEARS OF REMARKABLE SERVICE BY GREAT PATRIOTS

Mr. HELMS. Mr. President, speaking of remarkable, I have been in correspondence with a great lady who fits that description perfectly. Phyllis Schlafly long ago became a legend in her own time, a fact that once more came to mind a few weeks back when she and I discussed the then-upcoming 50th anniversary of America' Future, Inc.

America's Future was founded by great Americans dedicated to the preservation—and the restoration—of the principles outlined by the Founders of this Republic. Dr. Robert Morris, who, by the way, celebrates his 81st birthday today, is chairman and president, and a trustee of America's Future, along with the following who also serve as trustees: D. Clifford Allison, attorney of Wichita; Dr. Anthony T. Bouscaren of Fayetteville, NY; Philip C. Clark of Greensboro, NC; William J. Gill of Washington; Wesley H. Hillendahl of Santa Rosa, CA; Dr. Anthony Kubek of Clearwater Beach, FL; John J. Metzler of New York City; Mrs. Herbert Philbrick of Rye Beach, NH; Elizabeth E. Racer of Winchester, VA; Brig. Gen. Robert C. Richardson III (retired) of Washington; Henry Salvatori of Los Angeles; Phyllis Schlafly of Alton, IL; Maj. Gen. John K. Singlaub (retired), Arlington, VA; Retired Ambassador Raymond L. Telles of El Paso; James L. Tyson of Darien, CT; W. Raymond Wannall, retired Assistant FBI Director, Silver Spring, MD, and John C. Wetzel, Milford, PA. Gen. Dan Graham was a trustee prior to his death sometime back. I have been a trustee for several years.

Mr. President, when America's Future was founded, 50 years ago, the Second World War had just ended and the United Nations had just been launched. The cold war had not yet begun, and neither had the conservative movement. Fifty years ago, the number of conservative, constitutionalist, free-market-oriented organizations and publications could be counted on one hand. But the number of Communist-front organizations, to say nothing of liberal and left groups, numbered more than 1,000.

Our Nation was in transition, and our enemies moved quickly to make the most of it. There was an obvious need for organizations and individuals willing to defend the American way. And so, on April 24, 1946, America's Future, Inc., a nonprofit, tax-exempt educational organization, was founded in New York City by a group of businessmen dedicated to the preservation of two great fundamental principles: The competitive, private enterprise system that has made our country strong and prosperous, and the constitutional form of government that has kept us free from the tyranny of individuals or factions.

America's Future had among its founding members such distinguished Americans as Frank E. Gannett, Mrs. Amos Pinchot, and Gen. Robert E. Wood of Sears, Roebuck & Co. The many prominent Americans who served as trustees include National Association of Manufacturers past president, Robert L. Lund, Henning W. Prentis, Jr., of Armstrong Cork Co., former New Jersey Governor Charles Edison, George W. Strake of Houston, and Charles Hook of Armco Steel.

Mr. President, between 1946 and 1948, America's Future sponsored and produced over the ABC Radio Network a Sunday afternoon commentary featuring Samuel B. Pettengill, former Member of Congress and nationally known constitutional authority. America's Future also began the publication and distribution of books, pamphlets, and reprints now numbering in the millions.

In the 1950's, noted journalist and staunch patriot John T. Flynn joined forces with America's Future. He went behind the headlines to explain the real significance of events and personalities. His commentary for America's Future, aptly named "Behind The Headlines," was carried on more than 300 radio stations of the Mutual Broadcasting System. Commentaries by Flynn were also distributed to hundreds of newspapers.

America's Future launched its Textbook Evaluation Project in 1958, to give due recognition to textbooks that accurately portray our history, our government, and our economic system—and to alert the unsuspecting public to those who distort the fact or justify the expansion of big government. The first issue of the America's Future newsletter appeared the following year, in 1959.

R.K. Scott devoted 31 years of his life to America's Future, succeeding the late Robert Lund as president in 1958, and becoming the full-time moderator

of "Behind the Headlines" in 1961. John Wetzel, who had served America's Future as treasurer since 1958, succeeded as president in 1989. Philip Clarke, a veteran journalist who has reported for the Associated Press, Newsweek magazine, and the Mutual Broadcasting System, became the voice of the syndicated radio commentary, "Behind the Headlines."

Robert Morris, the renowned geopolitical strategist and one of America's foremost authorities on intelligence and national security, became chairman of the board of America's Future in 1989 and president in 1995. He served as a U.S. Navy intelligence officer during World War II and was chief counsel to the U.S. Senate Internal Security Subcommittee from 1951 to 1953. A former judge, the former president of two Texas universities, the author of numerous books and a syndicated newspaper column, Morris is currently the chairman of the National Committee to Restore Internal Security.

Mr. President, America's Future continues to provide its "Behind The Headlines" commentaries free of charge to any radio station or newspaper that requests them. "Behind the Headlines" is currently broadcast by more than 120 radio stations across America, and published by more than 300 newspapers. The commentaries are summarized for thousands of subscribers nationwide in the bimonthly America's Future newsletter, which is available free of charge to college and high school libraries, "Behind The Headlines" can also be found on the America's Future worldwide website—http://www.accessus.net/~eamiller/af.

Methods of communications may change, but the principles America's Future espouses will remain timeless. Whether it's on the radio, in newspapers and pamphlets and newsletters, on the Internet, or though some medium not yet imagined, America's Future will keep reminding our countrymen that the best way to protect the freedoms Americans enjoy is by preserving our constitutional form of government and our private enterprise system.

As it stands poised on the threshold of a new century, America's Future can by justly proud of its success in combating the philosophical errors of our era. Big government is not dead yet, but it is discredited. We have every reason to hope, therefore, that tomorrow will bring a rebirth of freedom in our country. There truly is a lot to look forward to in America's future, and we congratulate America's Future, Inc., on the occasion of its golden anniversary.

SENATOR DAVID PRYOR

Mr. DODD. Mr. President, as we approach the end of another Congress, we engage in our biannual tradition of bidding farewell to those Senators who will not be returning in January. This practice epitomizes the wonderful circle of closure and renewal that marks our service in the U.S. Senate. Senators who have been blessed to serve their country move on to accept new challenges, and fresh lawmakers, intent on serving their constituents and their Nation, take that place. All, of course, of these exits are not always voluntary because they are also contingent on the desires and wishes of the people we represent. But, in some cases, our fellow Members decide on their own, sometimes against the wishes of their constituents, that they will no longer serve in the U.S. Senate. Such is the case this year.

Mr. President, the 105th Congress will be a much different place come January 1997, whether it is controlled by Democrats or Republicans. Come January, some of America's finest public servants will be moving on to fresh challenges and embracing new goals.

For more than 200 years, some of our Nation's greatest thinkers and most eminent legislators have served in this body, from John Calhoon, Henry Clay, and Daniel Webster to Lyndon Johnston, Everett Dirksen, and Richard Russell.

Those who are retiring this year, both Democrats and Republicans, are a distinguished and impressive group of lawmakers.

Mr. President, we unfortunately live in an era where the level of partisanship and the level of brinkmanship, I believe, threatens the very foundations of this institution. When compromise has become synonymous with failure, and name calling, too often, and scoring political points is taking the place of legislating, the 13 Senators who are retiring represent, in my view, the spirit of compromise and bipartisanship that must invigorate this institution if we are to regain the abiding faith of the American people.

These legislators—these 13, in my view—are the sort of legislators who have sought common ground, not partisan advantage. They have strived to build bridges to their opponents instead of using wedge issues to divide us as a people and as a nation. They are exactly the type of lawmakers I believe our Founding Fathers had in mind when they created this institution more than 200 years ago.

Over the past 2 years I have come to the floor on several occasions to bid farewell to our retiring colleagues. Today I would like to focus my remarks on two Members who I know will be particularly missed.

Throughout my 16 years as a Member of the U.S. Senate, I have had the great honor to serve alongside DAVID PRYOR. I mean that both figuratively and literally, as he has been my neighbor here on the Senate floor for the past 12 years. DAVID PRYOR is one of the body's most distinguished and best loved Members. He is an able legislator and, most of all, a very close and dear friend.

Mr. President, the small State of Arkansas has an impressive political tradition. By all accounts, it has given this country some of its most influential and distinguished leaders and lawmakers. William Fulbright was a giant in the area of international relations. Senator BUMPERS, our colleague in the Senate, is truly one of the great orators of this institution and one of the most passionate voices who has ever served in the U.S. Senate. And, of course, our President, William Clinton.

But for all of those wonderful politicians who have served the State of Arkansas, DAVID PRYOR remains by all accounts the most popular and the most beloved politician in all of Arkansas. This is certainly no accident, because throughout his career in politics, from the House of Representatives to the Arkansas Governor's mansion to the U.S. Senate, DAVID PRYOR never forgot where he came from and he never lost touch with the people who elected him.

Our colleague, DALE BUMPERS, said of DAVID PRYOR that he personifies "the nobility of public service." Mr. President, I could not agree more.

As a freshman Senator in 1979, DAVID sent his Senate staff back to Arkansas to work alongside their constituents to learn firsthand the concerns of Arkansans, and as a young House Member he investigated nursing homes by donning an orderly's uniform and going undercover into nursing homes. That subterfuge is one of many burdens DAVID PRYOR took on for our Nation's elderly.

Throughout his hard work, he helped establish the Special Committee on Aging. And he never stopped fighting to keep drug prices down for elderly patients. DAVID and I didn't always see eye to eye on this issue. In fact, we disagreed on this particular question. But our policy differences never resulted in personal differences. Most importantly, they never got in the way of our friendship and genuine affection for each other.

DAVID PRYOR has also long been a tireless advocate for American taxpayers, working from his position on the Senate Finance Committee to smooth relations between the Internal Revenue Service and taxpayers.

Here in the U.S. Senate he has worked as hard as any Member to encourage civility and a family-friendly atmosphere. Time limits on votes and recess schedules remain a lasting part of his senatorial legacy.

But, most of all, DAVID PRYOR brought a quiet humility and gentle demeanor to a place that too often is known for its sharp elbows and short tempers. He has earned the respect and admiration of both Republicans and Democrats, which is no easy feat in this day and age.

I doubt there is a Member who isn't genuinely saddened to see DAVID PRYOR leave the U.S. Senate. He personifies all that we must continue to strive for as politicians and lawmakers, and as national leaders.

For myself and all of those whose lives he has touched and for all of those in this Chamber, he will be sorely missed. I wish he and Barbara a happy and healthy and busy retirement.

RETIRING MEMBERS

Mr. HATCH. Mr. President, we are coming to the end of an interesting Congress. It has been a contentious one. We have had a lot of difficulties among various colleagues here. We have had some awful battles, but by and large it has been a Congress of great capacity, a Congress of great accomplishment.

I personally want to express appreciation to my colleagues on both sides of the aisle for being able to work together as well as we have and being able to accomplish all the good things we have accomplished. I also want to pay tribute to all of those who are now about to leave the Congress of the United States and in particular, the U.S. Senate.

We have had a remarkable group of people serving with us in the U.S. Senate who are leaving this year, and I, for one, will miss each and every one of them. I wish my colleagues the best in the upcoming election.

SENATOR J. BENNETT JOHNSTON

Mr. DODD. Mr. President, let me also today pay tribute to a great Senator and a close and dear friend from the State of Louisiana, J. BENNETT JOHNSTON.

BENNETT JOHNSTON has served his beloved State of Louisiana for the past 32 years. He began his life in politics in the Louisiana House of Representatives in 1964, and went on to the Louisiana Senate in 1968, and in 1972 he became a Member of the U.S. Senate, where he has served with great distinction and honor for the past 24 years.

As much as any man or woman in this body, BENNETT JOHNSTON truly understands the critical importance of compromise, bipartisanship, and working across party lines. He always embraced the opportunity to engage an opponent rather than tear them down, and by doing so he has made the Senate a more civil place in which to serve.

I think the words of our former colleague, Russell Long, best described BENNETT JOHNSTON's tenure. Russell Long said, "No other Member of the Senate has accomplished more for the people he represents. No State in the Union has had a more faithful servant nor a more powerful advocate than Louisiana has had in BENNETT JOHNSTON."

BENNETT JOHNSTON was always looking out for the people and the best interests of the people of Louisiana. He became an expert on issues that make many Senators' eyes glaze over with the mere mention of the subject matter. But they were vitally critical to his State's future: wetlands issues, national defense, and energy policy.

For his home State of Louisiana, BENNETT JOHNSTON worked to improve educational opportunities and helped to provide funds for new research facilities, better interstate highways, new ports, levies, and three national parks.

His knowledge of the minutia of energy issues, his skill at crafting coalitions, and his tireless efforts shepherded one of the most comprehensive energy-related measures through the U.S. Senate in 1992. That bill remains one of the most important achievements of the 102d Congress, and it is a fitting legacy to BENNETT JOHNSTON's tenure in the U.S. Senate.

When he announced his retirement from this body, he didn't use it as an opportunity to attack the Senate or to decry his service here, but instead to reaffirm his commitment to the principles and values of this institution, and of public service.

I would like to quote from his own statement on the day he announced his retirement. He said, "Politics and public service are synonymous with the pursuit of public office. It is a high calling in our society. It is the best opportunity for helping your State, your country, and your fellow man. The Senate, with its faults and criticisms, remains the bulwark of our democracy, and a hallowed institution. I will stand up for it, will not bash it, and will defend it against those who do."

Those words, I think, Mr. President, stand in sharp contrast to the voices of cynicism that we often hear not only in this town but also, frankly, too often in this Chamber. They are the words of a man who loves the U.S. Senate and who treasures the opportunity to serve his State and his country.

To BENNETT JOHNSTON and his wife, Mary, and their family, I wish them Godspeed and the best wishes in their future endeavors.

TRIBUTE TO THE JUDGE

Mr. DODD. Mr. President, I rise today to add my voice to those of my colleagues in paying tribute to our distinguished and venerable colleague, the Judge, Senator HOWELL HEFLIN.

I've had the great honor to serve—and here on the floor of the Senate, to sit alongside the Judge from Alabama—throughout my entire tenure as a U.S. Senator.

Mr. President, HOWELL HEFLIN brought integrity, character, virtue and his folksy Southern humor to a body that is often devoid of such characteristics. What's more, his life has been consistently marked by a constant, single-minded devotion to public service and the love of his country.

During WWII, like many of his contemporaries, he answered the call of his Nation and enlisted in the Marine Corps. In the process, he became a bonafide war hero.

Lt. HOWELL HEFLIN joined in the initial assault to liberate the island of Guam from its Japanese occupiers. He was wounded twice and spent considerable time recovering in stateside hospitals. For his bravery, he was awarded two Purple Hearts and the Silver Star.

After the War, Senator HEFLIN became a trial lawyer in his native Alabama, which began his career-long fascination and devotion to the law. In 1970, he was elected Chief Justice of the Supreme Court, where he received the moniker that many know him by in this body—Judge HEFLIN.

That nickname describes well his tenure here in the U.S. Senate and provides context to the issues he championed as a Senator.

As a member of the Senate Judiciary Committee, he brought an unparalleled understanding of the judicial process and judicial interpretation to the Senate. Judge HEFLIN was instrumental in improving our Federal courts, and he worked tirelessly to improve and reform our Nation's judicial system.

HOWELL HEFLIN also brought his wealth of legal knowledge to his role as chairman of the Senate Ethics Committee. While largely a thankless and sometimes tedious position, he never shirked his responsibilities to his colleagues and to the reputation and integrity of the Senate.

Most of all though, HOWELL HEFLIN was always looking out for the people of Alabama. Not surprisingly he's been dubbed the "Spokesman for Southern Agriculture" for his unwavering and vigilant support for Alabama's rich agricultural heritage.

While often tagged as a conservative Democrat, he displayed the fervor of many a New Deal Democrat when he came to the Senate floor to speak passionately about issues that directly affected his constituents—from rural electrification, Federal crop insurance, the peanut subsidy program to the space station and civil rights legislation.

But, most of all HOWELL HEFLIN brought a sense of quiet dignity and tolerance to this body. When he announced his retirement from the Senate, he spoke with great fervor about the need for a new level of political discourse and conduct in our Nation.

He said: "We must set a new course in this Congress and across the land—a course of moderation, tolerance, responsibility and compassion." These words epitomized HOWELL HEFLIN's service in this body, and in my view they are the essence of what service in the U.S. Senate is all about.

This place will not quite be the same without HOWELL HEFLIN's indomitable presence, his deep Southern drawl and and his wonderful sense of humor. They will not easily be replaced.

But for every Member of this body there comes a time to move on and embrace new challenges and new goals. That time has come for the Judge. I wish HOWELL and his wife "Mike" best wishes in their retirement and all their future endeavors.

TRIBUTE TO PAUL SIMON

Mr. DODD. Mr. President, as the Senate fast approaches the end of the 105th Congress, I would like to take this opportunity to bid a fond farewell to one of our most distinguished colleagues—Senator PAUL SIMON from Illinois.

Throughout his entire life, PAUL SIMON has been devoted to his fellow citizens and has never wavered from the firmly-held beliefs and principles that guide his public life.

From his first job in 1948, at the tender of age 19, as the Nation's youngest editor-publisher, PAUL SIMON was focused on helping his community. From his position at the Troy Tribune he led an impressive crusade against local criminals and machine politicians.

In 1954, he officially began his career in public service as a member of the Illinois House of Representatives. He went on to serve in the State Senate and as Illinois Lieutenant Governor until coming to Washington as a Congressman in 1974 and finally becoming a Senator in 1984.

Throughout that time, PAUL SIMON never lost touch with his Midwestern roots, his reformist ideals or with his constituents, who continued to return him to office, year after year.

PAUL SIMON was one of the first politicians in this Nation to disclose his personal finances, starting in the 1950's.

Additionally, throughout his career he focused on helping provide educational opportunity for the American people. In the Illinois Legislature, he was one of the first lawmakers to propose legislation that would provide a public education for children with disabilities.

Later he was one of the original sponsors of similar landmark legislation on the Federal level, which became the law of the land in 1975.

PAUL SIMON helped lead the way in attacking the problem of illiteracy by working to pass the National Literacy Act.

In 1994, he continued to lead the way on education by working to open up new school-to-work opportunities, and he was the lead sponsor of the President's effort to reform our student loan program. I was pleased to work with Senator SIMON and today we can both look with pride to the new direct student loan program.

Throughout his career, PAUL SIMON has represented the traits of fairness, integrity, and honesty, which has earned him the respect of all members of this body.

This was never more evident then last week, when all the members of the Senate gathered together to honor him by donning imitations of his trademark bow-tie. That salute to our distinguished colleague was an appropriate tribute to a man as unique and distinctive as PAUL SIMON.

To Paul and his wife Jeanne, I wish him the best of luck in all their future endeavors. For a man who has written 15 books I can't imagine that we've heard the last of PAUL SIMON and I look forward to enjoying his wise counsel in the years to come.

TRIBUTE TO SENATOR HANK BROWN

Mr. DODD. Mr. President, I would like this opporunity to pay tribute and bid farewell to our distinguished colleague from Colorado—Senator HANK BROWN.

HANK BROWN will be leaving the U.S. Senate after an all-too brief, yet impressive stay in this body. A dedicated and thoughtful legislator, his leadership and intellect will be sorely missed.

Beginning with his experiences in the House of Representatives to his one term here in the Senate, he's been an outspoken leader on issues of foreign policy, deficit reduction, trade, and the military.

His integrity, fairness, and commitment to principles were evident in his approach to all these issues.

I had the pleasure of working with Senator BROWN on both the Budget and Foreign Relations Committees. In both committees, I've been impressed with his perseverance and dedication to developing innovative policy options.

Senator BROWN possesses a rare but important enthusiasm for delving into the Government's fiscal situation. His dedication to discuss budgetary issues is particularly evident in his extra-curricular activities.

While many of us are consumed by the lengthy schedules of day-to-day congressional affairs, HANK BROWN took the time to earn two graduate degrees while a Member of the Congress. In 1988, while still in the House, he earned a degree in accounting, and 2 years earlier, he received a master's degree in taxation. His scholarly grasp of budgetary matters is evidence of his abiding commitment to be well-informed and aware of all possible policy directions.

Senator BROWN has been equally dedicated to foreign policy issues. His amendment to expand NATO to include former Communist states in central and Eastern Europe is just one example of his efforts. The NATO amendment gained bipartisan support because of his strong analytical grasp of the issue and an important willingness to seek out compromise.

HANK BROWN's efforts on this issue stand as an example to us all that a political process often accused of inefficiency and gridlock can work when ideas and cooperation are elevated above the cynical tone too often found in this Chamber.

Senator BROWN is also a distinguished Vietnam veteran, awarded the Air Medal with gold stars, the Vietnam Service Medal, the National Defense Medal, and a Naval Unit Citation. He served in the Colorado State Senate from 1972 to 1976, and was named "Outstanding Young Man of Colorado." Afterwards, he spent 10 years in the House of Representatives before being elected to the Senate in 1990.

Senator BROWN's experience as a military veteran and long-term public servant is indicative of his tireless devotion to addressing the problems that face our Nation today.

His extraordinary public service has been marked by his intelligence, firm commitment to principle, and genuine sense of duty to the State of Colorado. He has made a place for himself in this Senate that will far outlast the time spent here.

I wish him and his wife Nan the best of luck in all their future endeavors.

A TRIBUTE TO SAM NUNN

Mr. HOLLINGS. Mr. President, after 24 years of service we are sad to see Senator SAM NUNN of Georgia go. Like his uncle before him, the Honorable Carl Vinson, chair of the House Armed Services Committee, and that other eminent Georgian, the Venerable Richard Russell, chair of the Senate Armed Services Committee, he has served with distinction, ensuring our Nation's defense in the shifting sands of the post cold war. SAM NUNN can claim credit for overhauling the much maligned procurement system and for streamlining excess base closings. Additionally, he is responsible for engaging the Department of Defense in the war against drugs. With bipartisan support, he sponsored the comprehensive Omnibus Anti-Drug Substance Abuse Act of 1988 that addresses every facet of the issue: law enforcement, interdiction, treatment, education, and increased cooperation with the international community and our own Internal Revenue Service. The latter signals the agency's return to its former G-man days, targeting organized crime and the narcotics industry.

Among our esteemed colleague's forays on crime are his chairmanship and current ranking minority leadership on the Senate's Permanent Subcommittee on Investigations. In this venue, SAM probed the fraud and abuse of student financial aid. He likened the Nation's PELL Grant Program to "an open bank

with no security guards and no tellers". As a result of this and other investigations like it, reform measures were included in reauthorization of the Higher Education Act in 1992.

Other significant achievements belonging to SAM include a 1974 bill which created a mechanism for tracking down runaway parents and holding them financially responsible for their children, definitely a harbinger of family values. He saw the value of providing numerous initiatives for small businesses, including the Small Business Development Center program which provides management and technical assistance to small businesses across the country, and the Preferred Surety Bond Guaranty Program enacted in 1988 and designed to encourage more standard surety companies to participate in the Small Business Administration's Guaranteed BOND Program, strengthening the heart of the American economy, the small businessman. And lest you ever think that SAM forgets the agricultural heritage of Georgia, he cosponsored the Conservation Reserve Program that encourages farmers to retire highly erodible and environmentally sensitive crop land on a 10-year cycle. Georgia, along with the rest of us, can thank him for the Georgia Wilderness Act of 1984 and the creation of the Chattahoochee River National Recreation Area.

Yes, he will be remembered as an outstanding Senator and defence expert in the Georgia tradition, but as you can see, he has been much more. Most of all, he has been someone that the people of Georgia and the United States were proud to have serve them as a Senator.

SENATOR PRESSLER'S SERVICE AS CHAIRMAN OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION IN THE 104TH CONGRESS

Mr. LOTT. Mr. President, I rise to talk about a friend and long-time colleague, Senator LARRY PRESSLER from South Dakota. Not only does Senator PRESSLER serve South Dakotans' by fighting for the traditional way of life South Dakotans want and deserve, he serves the people of his State and all Americans as Chairman of the Senate Committee on Commerce, Science, and Transportation. Mr. President, by any measure the Senate Commerce Committee has been one of the most productive in the Senate and, indeed, in either body, during the 104th Congress.

I say this with the greatest sincerity. I know it is true because I have the pleasure of working side-by-side with Senator PRESSLER on the Commerce Committee. As a committee member, I have watched him work tirelessly on behalf of all Americans on some of the most far-reaching and challenging issues this Congress has faced.

Let me say a bit about the vast responsibilities the senior Senator from south Dakota has as chairman of the Commerce Committee. On a daily basis, Chairman PRESSLER labors on matters ranging from promoting the United States as an international tourism destination to shaping the dynamic course of a modernized national communications policy; from intervening on behalf of ranchers into questionable meatpacking concentration practices to working to make the skies as safe as possible for the travelling public.

These are just a few examples of the chairman's vast responsibilities. The list goes on. His job is no small task and in my humble opinion, Senator PRESSLER is a superb chairman.

As I think about significant national events we faced during the 104th Congress, the safety of our Nation's skies comes to mind. Two recent air tragedies, first in the Florida Everglades, and more recently, off the coast of New York, have focused the Nation on aviation safety. Long before he was chairman of the committee with jurisdiction over aviation, Senator PRESSLER worked aggressively to achieve safer skies for the travelling public.

As chairman, Senator PRESSLER made aviation safety one of the main priorities of his committee, holding various aviation safety hearings and leading Congress on working to improve air safety.

Much of his work on aviation safety and security should soon become law as part of compromise legislation he introduced reauthorizing the Federal Aviation Administration. Senator PRESSLER served as chairman of the joint House/Senate Conference Committee that produced the compromise FAA reform and reauthorization bill that will soon be on its way to the White House for the President's signature.

Among its provisions, the bill makes it easier for family members to get accurate information and counseling after a loved one has perished in a plane crash. The bill also calls for the immediate installation of explosive detection technology to beef-up security at our Nation's most vulnerable airports. This is why I chose Senator PRESSLER to represent the Senate on Vice President's GORE's Commission on Air Safety and Security. He has the kind of experience in aviation matters that the Gore Commission needs.

As he does time and time again, Senator PRESSLER also delivered for South Dakota in this legislation. Under his leadership, the bill reauthorizes the Essential Air Service program at a level of $50 million per year. Mr. President, that doubles the size of this program so vitally important to South Dakota's, and this Nation's, smallest air ports. Senator PRESSLER's hard work ensures people living in our small communities will remain linked to the national air transportation network.

The bill also creates a new funding formula for the Airport Improvement Program. AIP is the program by which airports across the country, from the largest to the smallest, receive assistance in maintaining their core facilities such as runways and terminals. Once again fighting for the people of South Dakota, Chairman PRESSLER saw to it that the new AIP program guarantees that if overall airport funding is significantly reduced, smaller airports will not be disproportionately disadvantaged. Also of importance to smaller airports, the bill directs the Secretary of Transportation to conduct a rural air service study, including an examination of why air fares are so high in small air service markets and provides increased flexibility to small airports working on multi-year airport construction projects.

If we look at aviation in the context of global commerce, Senator PRESSLER has used his chairmanship to pry open air service markets for U.S. carriers worldwide. The German open skies aviation agreement, which PRESSLER helped secure earlier this year, is just one example. These agreements are good for our national economy, good for the airline industry and good for the consumer. Under PRESSLER's stewardship, we are making more progress than ever before on securing international aviation agreements.

When most people hear the name PRESSLER, they think of telecommunications. He is, after all, credited with achieving the most massive overhaul of our Nation's telecommunications policy since the 1930's. Already, people are using new telecommunications products made possible through the deregulation of the industry. Through Chairman PRESSLER's efforts, we are now ready to take America's telecommunications industry into the 21st century.

PRESSLER's telecommunications law translates into new, more affordable communications options for our homes, hospitals, schools, farms and even highway infrastructure. Under the Pressler Telecommunications Act, phone service providers, cable companies, local television broadcasters, and other companies will compete to bring us entertainment, telephone service, news and information. Once fully implemented, this will mean lower prices for a wide range of communication products.

Mr. President, this new law certainly will benefit all Americans. However, in drafting the law, Senator PRESSLER once again championed the needs of those in rural parts of the country—those who historically have benefited least from advances in communications technologies. Thanks to Senator PRESSLER, South Dakotans will enjoy a wide range of new services.

Take, for example, telemedicine. Telecommunications can connect the

world's finest physicians to the most remote areas of the country. It means equality. It means people living in sparsely populated or rural areas will enjoy the latest medical information via computer and satellite.

On the farm, access to information on weather, market conditions, new crops and the latest scientific advances is vital to successful farming operations. The Pressler Telecommunications Act will help bring this information to farmers and ranchers more quickly and efficiently than ever before, and at affordable rates.

Thanks to Senator PRESSLER, students in the classrooms of South Dakota will more rapidly see expanding opportunities in distance learning. These students will be able to receive foreign language, science and advanced mathematics instruction from teachers miles away. Electronic library support will increase, allowing more readers to reserve or renew books by phone or computer. All this will allow schools to better manage scarce resources.

Mr. President, the Pressler Telecommunication Act is one of, if not the most significant legislative accomplishment of this Congress. It is extremely important consumer oriented legislation. It is the most sweeping and revolutionary piece of legislation authored by a South Dakota Senator since the framing of America's Interstate Highway System was initiated by the venerable Senator Karl Mundt.

A second major piece of consumer oriented legislation also came from Senator PRESSLER's Commerce Committee—a product liability reform bill aimed at curtailing frivolous lawsuits. This legislation is good for businesses both small and large. At the same time, Chairman PRESSLER was committed to the proposition that the Commerce Committee write a reform bill that also would benefit consumers.

In 1995, the Commerce Committee reported legislation that would do so in a number of ways. First, it would mean more jobs. Second, it would lower the cost of goods. Third, it would mean a greater selection of goods from which to choose. Fourth, it would encourage testing to make goods safer. Finally, it would help to maintain and, in some cases, improve the quality of products available to consumers.

While the Commerce Committee had held 23 days of hearings on product liability reform and reported seven product liability reform bills since 1981, under Senator PRESSLER's chairmanship, the full Senate passed a bill for the very first time in its history. Chairman PRESSLER then led the Senate delegation into a conference that crafted a compromise bill that ultimately looked very much like the legislation originally reported from PRESSLER's committee.

In another first, both Houses of Congress passed this product liability reform legislation and sent it to the White House for signature. Sadly, in a display of raw, election year political game playing, the President vetoed this important bill. I know Chairman PRESSLER's committee will again produce meaningful product liability reform legislation in the next Congress.

As Chairman of the Commerce Committee, Senator PRESSLER also has been a leader in efforts to reduce the size of government. Late last year, the President signed into law the ICC Termination Act of 1995. Senator PRESSLER introduced the bill in the Senate. As a result of his efforts, an entire Federal agency, the Interstate Commerce Commission, closed its doors forever on December 31, 1995.

The ICC Termination Act also eliminated scores of outdated, unnecessary, and burdensome regulatory requirements and restrictions hampering surface transportation industries. At the same time, Senator PRESSLER ensured the law also was designed to ensure continued protections for shippers against industry abuse—protections vitally important to shippers in places like his home State of South Dakota. A balance between regulatory relief and continued oversight was achieved.

The law also created a Rail-Shipper Transportation Advisory Council. The council is designed to advise the new Board and Congress on issues of importance to small shippers and small railroads, issues such as rail car supply, rates, competition, and procedures for addressing claims.

Mr. President, earlier this year, in response to the disturbing trend under which America slipped out of first place as the world's most visited country, Senator PRESSLER wrote legislation to put the United States back on the map as the world's No. 1 tourism destination. His bill, the Tourism Organization Act of 1996, passed the Senate and he worked tirelessly to craft a compromise bill that later passed in the House.

The Pressler tourism bill is now heading to the White House for the President's signature. Some may overlook the significance of the travel and tourism industry, but it employs more than 6.3 million people and is the second largest employer in America. Senator PRESSLER knows how vital this industry is to all Americans.

I have mentioned just a few of the different hats this chairman has worn during the 104th Congress. There are many, many more. Chairman PRESSLER toiled hard at the helm of a committee that also produced a great deal of vital, although not headline grabbing, legislation. His committee developed legislation needed to allow the Coast Guard to continue its functions vital to the security and safety of this Nation. It crafted what many are calling the most important environmental legislation to come out of the 104th Congress in the form of the Sustainable Fisheries Act. Senator PRESSLER's Commerce Committee furthered its environmental agenda by producing the Antarctic Science, Tourism, and Conservation Act of 1996. Each of these bills is of major consequence. All of these measures are on their way to the President for signature.

Mr. President, I note with a certain amount of personal pride that Congress also acted on a bill I introduced, S. 1505, the Accountable Pipeline Safety and Partnership Act of 1996. This legislation also originated in the Commerce Committee. It reauthorizes appropriations for natural gas and hazardous liquid pipeline safety programs, but it does much more.

S. 1505 is designed to make changes in existing law that reduce the risks and enhance environmental protection associated with pipeline transportation. I introduced this bill last December. Since that time, Chairman PRESSLER and I have worked with a broad constituency interested in the legislation. Together, we worked out a consensus amendment to the bill that was unanimously approved by the Commerce Committee in June.

S. 1505, as passed by the House and Senate, applies a simple, flexible, commonsense risk assessment and cost-benefit analysis to new pipeline safety standards. It moves pipeline safety away from prescriptive, command-and-control approaches and focuses future standards on actions that address assessed safety risks. I am proud of the bill this Congress sent to the President for signature into law. I thank Chairman PRESSLER for all his good efforts in getting this important job done.

Mr. President, under Senator PRESSLER's leadership the Commerce Committee also produced, and the Congress has now passed and sent to the President, reauthorization legislation for the National Transportation Safety Board and the Federal Trade Commission. The NTSB is one of our Government's most important agencies. Its mission is to determine the probable cause of transportation accidents and to promote transportation safety. The NTSB is world renown for its timely and expert determinations of accident causation and for issuing realistic and feasible safety recommendations. The FTC is charged with the dual mission of consumer protection and antitrust enforcement. Both agencies are critically important to the safety and well being of American consumers. Both will continue their important work thanks to Chairman PRESSLER's efforts.

Finally, Mr. President, I want to make brief mention of two other bills. Chairman PRESSLER has worked over the last 2 years to achieve a consensus on a National Space Policy Act and authorization legislation for the National

Oceanic and Atmospheric Administration, both of which were also introduced by Senator PRESSLER. The Space Policy Act embodies authorizations for NASA programs such as Mission to Planet Earth and the space station and enjoys broad bipartisan support in both Houses of Congress. The NOAA authorization legislation is another bill vital to the public safety. Among other things, NOAA is charged with forecasting and warning against impending destructive natural events such as hurricanes, thunderstorms, and tornados.

Mr. President, I commend Commerce Committee chairman, Senator LARRY PRESSLER. He is a shining example of how to get things done in the Senate. Just look at the record. Chairman PRESSLER has left his distinguished mark on some of the most important pieces of legislation this Congress produced.

I conclude by also congratulating the members, members on both sides of the aisle, of the Senate Committee on Commerce, Science, and Transportation for an exceptional legislative record in this Congress. Without a doubt this was one of the most active and productive of all Senate committees.

TIRBUTE TO SENATOR MARK O. HATFIELD

Mr. INOUYE. Mr. President, when the full Appropriations Committee marked up H.R. 3755, the fiscal year 1997 Labor/HHS appropriations bill, I was pleased that the committee accepted an amendment to name the new NIH clinical research center, the Mark O. Hatfield Clinical Research Center. This center will be of major importance to our Nation's health and will be named for a man who has dedicated his entire public life to enhancing the quality of all human life. There is no greater tribute to his innumerable contributions in this area than to designate, in his name, a living legacy within whose walls will be state-of-the-art facilities for a combined effort of basic and clinical research—laboratories and clinics side-by-side—to discover interventions and deliver the most effective health care our Nation or any nation has ever known.

In his 30 years of Senate service, Senator HATFIELD brought to this institution, his great intellect, a quiet decency, and a tenacious advocacy for those who have little voice. He is a true and eloquent spokesman for the protection of our people from the forces of ignorance and illiteracy, social injustice, weapons of mass destruction, and diseases that ravage the mind and body. Throughout his career, he consistently fought to direct our Nation's precious fiscal resources to programs that held promise in eradicating society's ills and improving the human condition. At times, he was a lone voice facing a hostile reception by administrations with different priorities but his dedication did not waiver.

Our chairman adheres to no political or ideological boundary but the voice of his own conscience, often placing himself in direct opposition the prevailing winds of the day. Whether fighting major rescissions in social discretionary programs in the early 1980's or in protecting biomedical research funding as recently as in last year's budget resolution, he never lost sight of the importance of maintaining strong national programs for both basic and clinical health research as well as the training of tomorrow's scientists.

Our colleague always believed that we would be acting irresponsibly by shortchanging these and other life sustaining efforts, therefore, any immediate savings achieved would be offset by a weakened human condition for decades to come. "If we fail to provide adequately for the training of future generations of research scientists", I have often heard him say, "then we are effectively eating our seed corn." In failing to provide necessary annual increases in funds for research grants, he insists, we will "lose the momentum" in our capacity to eradicate human suffering at home and world-wide.

WHen it is completed, the Mark O. Hatfield Clinical Research Center will be a magnificent structure and a world model. With this amendment, we honor a man who, in his retirement from the Senate, should leave secure in the knowledge that his life's work has made a difference. By creating the opportunity for new discoveries in disease prevention and treatment a more healthy future has been insured for all Americans today and for generations to come.

TRIBUTE TO SENATOR COHEN

Mr. FEINGOLD. Mr. President, I rise today to acknowledge the contributions of retiring Senator WILLIAM COHEN of Maine, as he prepares to take leave of the U.S. Senate.

Mr. President, the Christian Science Monitor once referred to Senator COHEN as a "true Renaissance man." That is an apt compliment, because it describes a person of broad interests who applies his intellect and energy with distinction in many theaters of human activity.

Senator COHEN certainly embodies that description.

In my 3 years here, I have come to appreciate Senator COHEN's intelligence, independence of thought and action, his integrity, his capacity for hard work and his respect for the Senate and for the process of making public policy.

He has also found time to write a pretty good book or two.

Senator COHEN and I have both served on the Senate Special Committee on Aging, and there I have been able to watch, first-hand, his skill and dedication in dealing with issues of particular importance to senior citizens and of relevance to us all. He has, in particular, been a leader in the battle against waste, fraud and abuse in our Medicaid system.

He has also, upon assuming the chair, continued the tradition of bipartisan cooperation on that committee.

I have also appreciated Senator COHEN's insistence on the highest ethical standards for lawmakers. He wrote the law that renewed the Office of Government Ethics and, in fact, made it stronger. He has been a reliable ally in the fight for congressional reform. He played an important role in lobbying reform and was an important supporter of the efforts to restrict gift giving.

Mr. President, several months ago, Senator COHEN delivered a moving tribute to another Maine lawmaker, Senator Edmund Muskie, after Senator Muskie's passing.

Senator COHEN quoted John Kennedy on how to take the measure of people: "First, were we truly people of courage? Second, were we truly people of judgment? Third, were we truly people of integrity? Fourth, were we truly people of dedication?"

Senator COHEN said at the time that the answer to each of those questions in Ed Muskie's case was "yes." The same can be said for Senator COHEN.

Mr. President, the residents of Maine know, I am sure, they have been well-served by Senator COHEN. Let me say, for the record, so have the American people.

FOOD AND DRUG ADMINISTRATION REFORM LEGISLATION IN THE 104TH CONGRESS

Mr. HATCH. Mr. President, as the 104th Congress winds to a close, I wanted take this opportunity to comment on the demise of the Food and Drug Administration Reform legislation.

It has been extremely disappointing to me that efforts to prod the FDA into meaningful reform have not been fruitful. It is doubly disappointing because, our colleague, Senator KASSEBAUM, and her staff have spent countless hours crafting a solid reform bill, a bill that won overwhelming, bipartisan support from the Labor and Human Resources Committee.

In remarks before this body earlier this year, I outlined my views on the need for FDA reform and the principles which should be embodied in any reform legislation. I continue to believe that reform of this tiny, but important, agency is sorely needed, reform that will both streamline its operations and preserve its commitment to ensuring the public health.

I know that many who have worked on the FDA issues are discouraged, but we can be proud of three significant reforms to food and drug law this year:

The first being the drug and device export amendments I authored with Representative FRED UPTON; the Delaney clause reform embodied in the pesticide legislation the President recently signed; and the animal drug amendments so long championed by Senator KASSEBAUM. It seems, therefore, that the revolutionary course we charted for FDA reform at the beginning of the 104th Congress, evolved into a path evoluntary in nature, but still productive nonetheless.

Much more remains to be done, and I will continue to work with my colleagues next year to advance the work we started this year. There are many priorities for further action, among them—speeding up generic drug approvals, clarifying how tissue should be regulated, expediting medical device approvals, deficiencies in the foreign inspection program, and rigorous oversight of the Dietary Supplement Health and Education Act's implementation.

Another issue that I would like to see addressed next year is one that has been periodically on the FDA radar screen: The issue of national uniformity in regulation of products that fall within the FDA's purview.

In 1987, FDA Commissioner Frank Young, in response to California's proposition 65, was on the verge of issuing an FDA regulation that would have acted to preempt certain warning statements required by the State of California. In fact, in August of that year, Commissioner Young wrote the Governor of California to underscore his concerns about the potential negative effect of proposition 65 on "the interstate marketing of foods, drugs, cosmetics and other products regulated by the FDA."

Further, Commissioner Young pointed out that "the Agency has adequate procedures for determining their safety and taking necessary action if problems arise."

Although ultimately this regulation was not issued, the 1991 Advisory Committee on the Food and Drug Administration, chaired by former FDA Commissioner and Assistant Secretary for Health, Dr. Charles Edward, examined this issue. The panel recommended that Congress enact legislation, "that preempts additional and conflicting state requirements for all products subject to FDA regulation."

The issue of Federal preemption is extremely important for several industries, especially over-the-counter drugs, cosmetics, and foods. I was heartened when the Labor and Human Resources Committee approved Senator Gregg's amendment on national uniformity for over-the-counter drugs during consideration of the FDA reform legislation, S. 1477, but was disappointed that Senator GREGG did not extend the concept further in his amendment.

Let us take the cosmetics industry as a case in point.

In the United States, the cosmetics sector of the economy represents an estimated $21 billion in annual sales, a significant amount by almost any measure. It consists of over 10 billion individual packages that move through the stream of interstate commerce annually. These include soap, shampoo, mouthwash, and other products that Americans use daily. These hundreds and hundreds of product lines, and thousands and thousands of products are each subject to differing regulation in the various State—even though all must meet the rigorous safety, purity, and labeling requirements of Federal law.

Given this volume of economic activity, it is imperative that manufacturers be able to react quickly to trends in the marketplace; they must have the ability to move in to new product lines and move into and out of new geographic areas with a minimum—but adequate—level of regulation to ensure the products are not adulterated and are made according to good manufacturing practices.

Today, cosmetics manufacturers are competing more and more in a global economy, and are making products consistent with the international harmonization of standards in such large marketing areas as the European Union. A single nationwide system for regulating the safety and labeling of cosmetic products would take a great step toward helping that industry move toward the international trends in marketing. At the same time, it would be a more efficient system, since allowing individual States to impose varying labeling requirements inevitably leads to higher prices.

In other words, the time has more than come for enactment of a national uniformity law for cosmetic regulation. It is my hope that this issue will be high on our congressional agenda next year.

In closing, Mr. Chairman, I want to offer my great respects to Chairman KASSEBAUM for the hours, weeks, and months of time she has devoted to the FDA reform issue. Although I have paid tribute to Senator KASSEBAUM in separate remarks here today, I must reiterate again how much her reputation for equilibrium and fairness have lent to development of an FDA reform proposal which cleared the committee in such a bipartisan fashion.

Finally, I must also pay tribute to the lead staffer on FDA issues, Jane Williams, who has worked virtually round-the-clock to try to fashion a good, fair, bipartisan reform bill. Jane more than exceeded that goal, and I think this body should give her some much-deserved recognition.

I yield the floor.

TRIBUTE TO BENNETT JOHNSTON—LOUISIANA'S SENIOR SENATOR

Mr. PRESSLER. Mr. President, I would like to bid fond farewell and Godspeed to one of my good friends and colleagues, BENNETT JOHNSTON, the senior senator from Louisiana. Senator JOHNSTON soon will retire from the Senate, leaving behind a record of major legislative achievements. His dedication and perseverance will be missed by all of us who remain, as well as his constituents in Louisiana. BENNETT JOHNSTON's career of public service began with his enlistment in the Army in 1956. He served in the Louisiana State Legislature—4 years each in the House and Senate—before he was elected to the U.S. Senate in 1972.

Mr. President, during his four terms in the Senate, BENNETT JOHNSTON always championed his state's interests. He fought diligently for Federal funding that transformed a pothole-filled road through Louisiana into frequently traveled Interstate 49. This vital transportation artery will be a fitting reminder to all Louisianians of BENNETT JOHNSTON's commitment to them. He also led the way for a new Red River navigation system, ports and levees, research facilities, wildlife refuges and parks.

His roles as chairman and ranking member of the Senate Committee on Energy and Natural Resources made Senator JOHNSTON a national figure. Perhaps his most significant legislative achievement was the National Energy Security Act—a comprehensive bill that established him as a master of energy policy. This bill was passed in the wake of the Persian Gulf War, and it has reduced our country's dependence on foreign oil. According to Marribell S. Ayres, executive director of the National Independent Energy Producers, the way BENNETT JOHNSTON handled the bill reminded her of the old saying, "talent is when opportunity meets preparation." The bill was a masterful achievement in legislating and he always will be remembered for that accomplishment.

I will miss BENNETT JOHNSTON's thoughtfulness and fairness on issues relating to our national resources, such as mining and timber issues. He has been a fair advocate for the concept of multiple use of Federal lands. He knows that multiple use is responsible use.

Mr. President, BENNETT JOHNSTON put it best when he announced in January 1995 that he would not run for reelection: There are rhythms and tides and seasons in life. I have been fortunate in my life to sense the rhythm and sail it full tide, and now I believe that season for a new beginning approaches. With that thought in mind, I wish my friend from Louisiana and his wonderful wife, Mary, the best of luck as they set sail from the Senate on

what surely will be yet another rewarding journey in an already exciting, fulfilling lifetime voyage of public service.

TRIBUTE TO SENATOR MARK HATFIELD

Mr. PRESSLER. Mr. President, I am honored to salute one of Oregon's and our nation's finest legislators and statesmen, my colleague Senator MARK HATFIELD, who will soon retire from the U.S. Senate. MARK HATFIELD is one of the Senate's all-time great leaders. His career has been marked by a voting record based upon consistency and a deep commitment to high principles. The Senator from Oregon will leave behind a very distinguished history of public service to his State and country.

As a young serviceman in the Navy, MARK HATFIELD was one of the first Americans to see Hiroshima after the atomic bomb was dropped. When he returned home, he became a political science professor and university dean at his alma mater, Willamette University. In 1951, MARK HATFIELD was elected to the Oregon House of Representatives where he quickly moved up through the ranks and then was appointed Oregon's secretary of state. Soon after, he was elected Governor of Oregon for two terms. Throughout his career of more than four decades in state and national politics, MARK HATFIELD never lost an election. In 1966, he was elected to the U.S. Senate.

During two periods as chairman of the Senate Appropriations Committee, Senator HATFIELD exemplified the perseverance and diligence of an experienced legislator. In his role as chairman, he succeeded in the challenging task of matching the more local needs of his colleagues with the national need to reduce our budget deficits. In the past 2 years, he has kept his committee on track to achieve a balanced budget by the year 2002. For that alone, all Americans should be grateful.

My friend from Oregon has been one of our most articulate champions for arms control and nuclear nonproliferation. These are special issues for me as well. He has stood by me as I've worked to reduce the spread of nuclear weapons in South Asia. He deserves to feel great pride in his untiring efforts to achieve a moratorium on nuclear testing.

MARK HATFIELD also will be remembered as a strong voice for economic growth and development. He has pushed to allow more roads and responsible logging practices in Federal forests. He has fought to protect Columbia River salmon and has demonstrated much concern for the interests of Oregon's Indian tribes.

Senator HATFIELD's determination to stand by his principles, even in the face of severe partisan pressure, has been admired by all his colleagues. MARK HATFIELD has always been a consensus builder on bills that have become bogged down in partisan politics. For example, he voiced his strong concerns about the safe drinking water legislation and the need to establish reasonable standards for contaminants. In this effort he kept in mind the many concerned States and cities that fear the onerous financial burdens the Federal bureaucracy too often impose. I applaud my colleague for his many valiant bipartisan efforts.

The Senate soon will bid farewell to our friend from Oregon, MARK HATFIELD. His colleagues and constituents can look back on his career with great respect and gratitude. Mr. President, as the 104th Congress draws to a close, I wish Senator HATFIELD all the best in his future endeavors. My wife, Harriet, and I wish Senator HATFIELD and his lovely wife Antoinette continued happiness, joy, and more quality time with their grandchildren. I am proud to have served in the Senate with MARK HATFIELD. I am even more proud to call MARK and Antoinette Hatfield my good friends.

TRIBUTE TO BILL COHEN—A MAN FOR ALL SEASONS

Mr. PRESSLER. Mr. President, I rise to pay tribute to my dear friend and colleague, Senator WILLIAM COHEN of Maine. Upon his retirement from this body, Senator COHEN will leave behind a legacy of camaraderie, hard work, and dedication to the people of Maine and the United States. His spirit of cooperation will be missed by his friends, constituents and colleagues.

Mr. President, it is fitting that Senator COHEN announced his retirement in the chambers of the Bangor City Council—the place where he began his three decades of public service to the people of Maine. In 1969, he proved to be a gifted leader during his tenure as Bangor City Councilor. In 1971, he was elected mayor. In his role as a local public official, Senator COHEN realized quickly the necessity for strong leadership and representation at the national level. In response, he walked over 600 miles across the State of Maine and knocked on thousands of doors in his campaign for the U.S. House of Representatives. In 1972, his grassroots effort paid off and he was elected to Congress.

It was in the House that my colleague first made his mark as an advocate of a stalwart national defense, effective intelligence system, and the highest ethical standards for Members of Congress and intelligence agency employees. As a member of the Armed Services Committee, he consistently has sought to keep our national security a top priority. He fought to ensure that America's defense readiness did not fall by the wayside in the face of budgetary constraints. He has been a true guardian of our Nation's security. His efforts have earned the gratitude and respect of all Members of this body and the people of Maine and our Nation.

A legislator, author, father, husband, and attorney, BILL COHEN often is referred to as a "Renaissance Man." Over the years, he has shared his literary talents through books such as "Of Sons and Seasons," "Murder in the Senate," and "A Baker's Nickel." His poetry first impressed us 20 years ago during a congressional prayer breakfast when he read several of his poems aloud. He acquired many of his literary fans then and has kept us entertained and inspired ever since. Since then, his literary gift has provided us a fascinating glimpse into his thoughtful and insightful mind. He is a multi-talented leader whose knowledge and genius are certain to guide him through a fulfilling post-Senatorial career.

My friend from Maine has said that writing takes solitude—a rare commodity in the busy life he now leads. As he moves on from this hurried lifestyle, I wish him years of solitude, peace, and happiness with his children and wife Janet. Godspeed to my dear friend from Maine.

TRIBUTE TO JIM EXON: A DEDICATED MIDWESTERN SENATOR

Mr. PRESSLER. Mr. President, today I pay tribute to a friend and fellow midwestern Senator—Jim EXON. Senator EXON and I entered the Senate together in 1978. I have enjoyed working with him on issues important to our states: South Dakota and Nebraska. We are not just fellow Senators, but fellow South Dakotans. He was born in Geddes, South Dakota, and once a South Dakotan, always a South Dakotan. When he retires at the end of the 104th Congress, I will miss him personally, as well as his dedication to rural America.

I have a great deal of respect for Senator EXON. He has served his fellow Nebraskans well. As ranking member of the Senate Budget Committee, he has been a driving force to get a balanced budget amendment passed in Congress. He understands well the importance of balancing the Federal budget. He knows that Federal spending must be reined in and that we owe it to our children to control our Government's "out-of-control" spending habits. He has a vision for our economic future—a vision that embraces the interests of rural America.

Senator EXON and I have served together for many years on the Senate Commerce, Science, and Transportation Committee. He has worked hard on the Commerce Committee, as he has on the Armed Services and Budget Committees. As our Nation evolves into the information age, JIM EXON has worked diligently to ensure that the

information superhighway maintains high decency standards and that telecommunications reform includes the interests of rural states. Additionally, JIM EXON has worked to keep our transportation network safe. Whether the issue is high speed rail safety or the transportation of hazardous materials, JIM EXON has been committed to improving our current transportation infrastructure.

JIM EXON's expertise on commerce and budget issues will not be easily replaced in Congress following his retirement. His care and concern for the people of Nebraska and the midwest will be missed. I will not forget JIM's dedication and commitment to his State and nation. As a World War II veteran, he has brought a level of patriotism, pride, and tenacity to this congressional body that cannot be matched. As I bid my friend farewell, I am saddened by his departure, but am happy for him as he embarks on a new facet of his life. I wish JIM and his wife, Patricia Ann, all the best in their post-Senate days. Their presence in Washington will be missed, but never forgotten.

TRIBUTE TO RETIRING SENATORS

Mr. SHELBY. Mr. President, we hope this will be the last day of the 104th Congress, and I would be remiss if I did not take this opportunity to remark about several of my colleagues—friends from both sides of the aisle—for whom today will be their last day as a member of this distinguished institution.

Let me first acknowledge my colleague from Alabama, Senator HOWELL HEFLIN. He came to the Senate the same year I came to the House of Representatives: 1979. He had a distinguished record as a lawyer and then as Chief Justice of the Alabama Supreme Court. As Chief Justice, Senator HEFLIN led the modernization of the judicial system in Alabama.

Throughout his three terms as a member of the Senate, he has served with distinction and honor. His integrity and dedication made him an exemplary Chairman of the Ethics Committee. We also should not forget his service on both the Judiciary and Agricultural Committees. He was very active, as he has been throughout his career, on both of these committees, where he showed his concern for the welfare of the country. Senator HEFLIN's retirement is indeed a great loss to this body.

There are a number of other colleagues, in addition to Senator HEFLIN, whom we will miss.

Senator SIMPSON of Wyoming, who served this side of the aisle as our assistant minority leader, is a man of untold ability, wit and intelligence.

Senator SIMON of Illinois is a man of unquestioned integrity.

Senator David PRYOR of Arkansas, who was on the floor just a few moments ago, is ending his third term as a Member of the U.S. Senate where he, too, has distinguished himself. A former Congressman and Governor of Arkansas, he concludes a laudable political career.

One of our most senior Senators, CLAIBORNE PELL of Rhode Island, the longtime chairman of the Foreign Relations Committee, is recognized as a leader in the area of international relations. He also has made his mark in the field of education. All of us are familiar with the Pell grant and other programs that he has inspired.

We will certainly miss Senator NUNN who brought a very reasoned position to all issues relating to foreign relations and national security. This goes without saying, but I thought he was an outstanding chairman of the Armed Services Committee. I feel fortunate to have had the privilege to serve with him on that committee for 8 years.

Senator NANCY LANDON KASSEBAUM, a Republican from Kansas who currently chairs the Labor and Human Resources Committee, is a distinguished Senator in her own right. Just look at her recent leadership to bring about long overdue reforms in the field of health insurance.

Senator BENNETT JOHNSTON of Louisiana is the former chairman of the Energy and Natural Resources Committee. We are certainly going to miss him. He has had a distinguished career here during his 24 years in the U.S. Senate.

Senator MARK HATFIELD of Oregon, the current chairman of the Appropriations Committee on which I now serve, has served with his characteristic civility and integrity. In recent days, he has worked through the night in the negotiations with the White House on the omnibus appropriations bill that we are getting ready to consider in a few hours.

Senator JIM EXON of Nebraska, a former Governor of Nebraska, is a three-term Senator from that state. I had the privilege of serving with him on the Armed Services Committee.

Senator WILLIAM S. COHEN, a Republican from Maine, a former outstanding Member of the U.S. House of Representatives before he was elected to the Senate. We will miss not only his wit, his intelligence, and his thoughtfulness, but also his writing ability, which at one time or another helped us all.

It has been an honor to serve with Senator HANK BROWN, a Republican from Colorado as it was to serve together in the U.S. House of Representatives. What has saddened me, and a number of my colleagues, is he will leave this body with such a bright and promising career after only 6 years.

Senator BILL BRADLEY of New Jersey has served 18 years in the Senate. He has spent days and nights, weeks and months up here, and I think, not in vain, in dealing with a common sense income tax program for all Americans.

Mr. President, we will miss all these people because individually and collectively they have enriched this body. I wish them well in their future endeavors. I yield the floor.

RETIREMENT OF SENATOR NANCY KASSEBAUM

Ms. MOSELEY-BRAUN. For the past 17 years, the people of Kansas and of the United States have had the great honor of being represented by Senator NANCY LANDON KASSEBAUM. For the past 4 years, I have had the privilege of serving with her.

I am here today because of I admire what she has accomplished in the Senate, what she has modeled for women and because I am pleased to be able to call her my friend.

I have disagreed with Senator KASSEBAUM on some legislative issues, but on many occasions there were common ground and agreement. Nonetheless, I always knew that she considered issues fully and made independent judgements on the merit of a specific piece of legislation. I know that she always considered the competing interests and judged them against her own beliefs.

Senator KASSEBAUM has championed causes that I hold dear, including reproductive choice, responsible gun control, and the 1994 crime bill that, among other things, sent police back to the neighborhoods to walk the beat. But even when I don't agree with her, I respect her intellect, her integrity, and her votes, for they are always votes of conscience.

Her leadership of the Labor, Education, and Human Resources Committee exemplifies her desire and ability to work across party lines on issues such as health insurance portability which is vital to working families and to the Nation.

She is the first woman in the Senate ever to chair a full committee. In this, as in all her accomplishments, Senator KASSEBAUM is a role model for women. She showed women active in community issues or serving in local and State governments, that they could aspire to more.

She served from 1978 to 1980 as the only female member of this illustrious body. I remember when I got here, elected with three other female freshman, and they handed me a spouse's I. D. badge. I know that mistakes like this must have been plentiful when Senator KASSEBAUM arrived. From all the women Senators, I thank her for making things easier for us, in the little and the big ways.

I'd like to note that it is not just her colleagues who hold Senator KASSEBAUM in such high esteem. There is a quote in an A.P. story from a University of Kansas political science professor that I'd like to share because it illustrates the enormous respect and affection felt by Kansans for the Senator.

"[Senator] KASSEBAUM sometimes deferred to [Senator] Dole as a leader. But [Senator] Dole knew, every day he went to work, that he was the second-most popular politician in Kansas." Another newspaper quotes a Democratic official as saying that in Kansas, "the only thing more popular than Nancy is wheat." Now that's saying something.

The last thing that I would like to say today on the floor is that I will miss Senator KASSEBAUM. I will miss talking with her on the floor. I will miss her contributions to legislative debate. And I will miss her great and moderate influence on this body as a whole.

We need more Senators like NANCY KASSEBAUM in the Senate. I think the Senate, the people of Kansas, and Americans all across this country are lucky to have had her service in the Senate.

TRIBUTE TO SENATOR JIM EXON

Ms. MOSELEY-BRAUN. Mr. President, I rise today to talk about the distinguished service of my friend and colleague, Senator JIM EXON of Nebraska.

When I think of America's heartland—the great plains, the small towns, farmers in the field, hard work, helping your neighbor—I think of Senator EXON. No other Senator better embodies the image, the values, and the beliefs of rural America. He fights for fiscal responsibility. He fights for the family farm. He fights for a strong national defense. After 26 years of public service to Nebraska, and a stunning record of five winning statewide elections in a row, his departure from public service leaves in its wake a record of accomplishment that will be difficult to match.

During his tenure in the U.S. Senate, Senator EXON has worked tirelessly on behalf of issues important to Nebraskans. He has strengthened the farm economy by fighting to promote ethanol fuels and expanding foreign markets for farm commodities. He has fought to improve rural health care by fixing unfair Medicare rules. He preserved Federal funding for the reformed crop insurance program. And he has improved transportation access for rural communities with his authorship of the current Essential Air Service law and by fighting to strengthen and preserve Amtrak.

Senator EXON has also left his mark on issues important to our Nation. He coauthored legislation passed in 1992 requiring the moratorium on nuclear testing and an end to all testing by 1996. He has used his position as a senior Member of the Senate Budget Committee to help reign in Federal spending and reduce the Federal deficit. He has greatly increased safety in the inspection of trucking and railroad industries.

These accomplishments are his legacy. The retirement announcement of Senator EXON, widely recognized as the chief architect in the creating a strong Democratic party in Nebraska, will leave a void in Nebraskan leadership that will likely be felt for years. I know Nebraskans are proud of his achivements. I wish Senator EXON the very best in his future endeavors.

THE RETIREMENT OF U.S. SENATOR HOWELL HEFLIN

Ms. MOSELEY-BRAUN. Mr. President, I rise today to make a few comments about a great U.S. Senator, Howell HEFLIN, or Judge HEFLIN as he is known to all of us who have had the privilege to work with him.

For over 24 years, HOWELL HEFLIN has fought for the interests of Alabama and America. He began his career in public service when he fought in the Pacific during World War II. There he was wounded twice and earned the Silver Star. After graduating from the University of Alabama Law School he began to practice law in Alabama. He went on to serve as President of the Alabama State Bar Association from 1965 to 1966.

In 1971 HOWELL HEFLIN became Chief Justice of the Alabama Supreme Court. He is credited with reforming Alabama's antiquated court system. His court reform package has earned him national recognition. His other accomplishments include serving as chairman of the National Conference of Chief Justices, vice president of the American Judicature Society, and being selected the American Association of Trial Lawyers "Most Outstanding Appellate Judge in the United States" in 1975.

I came to know Judge HEFLIN during his tenure in the Senate. He has provided constant leadership and has always had the time to listen. He has always had the time to take a junior Member under his wing and talk with them about issues, no matter how arcane.

When I first came to the Senate, I was assigned to the Judiciary Committee and was able to take advantage of Judge HEFLIN's incredible expertise as a member of that committee. It has been a pleasure working with him.

A man of integrity, HOWELL HEFLIN represents the new South. He has given rise to the kind of moral force that has lifted this body and indeed, this entire country. His integrity, his intelligence, his commitment to the Constitution, and his faith in what the American dream has always stood for and can be in the future, has led Judge HEFLIN in a direction of greatness that is without peer and without parallel in this body.

HOWELL HEFLIN is a man of courage. He stood on this floor about 2 years ago during the debate on the United Daughters of the Confederacy patent extension and made one of the most eloquent speeches I have ever heard. He made it from the heart and he made it with courage. It was that courage that the people of Alabama recognized when they elected him to serve in this body.

The Senate will not be the same place when HOWELL HEFLIN leaves. He has been a force for the good. He has been a force for the light. He has made a tremendous contribution. I will personally miss Judge HEFLIN and the people of his state will miss one of the best advocates for Alabama the Senate has ever seen. I wish Judge HEFLIN and his wife Mike well.

RETIREMENT OF SENATOR HANK BROWN

Ms. MOSELEY-BRAUN. Mr. President, I am pleased to have the opportunity today to reflect on the career of a Senator who I have had the honor of serving with during the last 4 years, Colorado's Senior Senator, HANK BROWN.

Senator BROWN has served the people and interests of the State of Colorado with distinction and independence, first as a State Senator between 1972 and 1976, then as a United States Congressman from Colorado's 4th district for 10 years and finally as a U.S. Senator since 1990. Prior to his distinguished career in public service, Senator BROWN applied the same affability, hard work, and talent as a vice-president at a Colorado meat-packing firm. In addition to his contributions as a statesman and a businessman, Senator BROWN also contributed to the State of Colorado and to the Nation as a Navy Forward Air Controller in Vietnam, where he earned numerous decorations, including the Air Medal with two Gold Stars.

Senator BROWN will leave behind a clear record as a foe of the budget deficit. In October of 1990, he opposed the budget-summit agreement, going against his party and with his conscience. Senator BROWN also supported the 1995 Balanced Budget Amendment.

This body will certainly miss the voice of Senator HANK BROWN. Upon hearing of Senator BROWN's retirement, the Daily Camera wrote on December 22, 1994 that "we admire the consistency of HANK BROWN's convictions.". I share the Daily Camera's opinion and I wish Senator HANK BROWN the best of luck and God speed as he begins a new life outside of the Senate.

RETIREMENT OF SENATOR J. BENNETT JOHNSTON

Ms. MOSELEY-BRAUN. Mr. President, I rise today to say farewell to a colleague who is retiring from the Senate the end of this Congress—Senator J. BENNETT JOHNSTON of Louisiana. Senator JOHNSTON has been a good

friend to Illinois, and his decision to retire will be a loss to Louisiana, a loss to this Chamber, and a loss to the Unites States.

Senator JOHNSTON was born in Shreveport, LA in 1932, attended Byrd High School and studied at the U.S. Military Academy and Washington and Lee University. He began his political career 32 years ago, serving 8 years in the Louisiana Legislature and 24 years in the U.S. Senate.

Since his arrival to the Senate, Senator JOHNSTON has fought hard on behalf of the people of Louisiana. He has used his seniority on the Senate Agriculture Committee to fight for the priorities of Louisiana farmers. He has worked to enhance navigation, flood control and hurricane protection in Louisiana, a State with many critical waterways. And he has fought to bring Federal dollars back to his home State, such as creating five national research centers at Louisiana universities and working to modernize Louisiana's military installations.

Today, Senator JOHNSTON is known nationally as a leader on energy issues. As a member and former chairman of the Senate Committee on Energy and Natural Resources, Senator JOHNSTON has been one of the chief congressional architects in crafting national energy policy, including what is considered his crowning achievement, the National Energy Security Act, the most comprehensive energy bill ever to pass Congress.

I appreciate the assistance that Senator JOHNSTON has provided to the State of Illinois over the years. Illinois is home to two major Department of Energy laboratories, Fermi National Accelerator Laboratory and the Argonne National Laboratory. Senator JOHNSTON's support has been critical to ensuring that Federal funding for these institutions, and the programs under their jurisdiction, is preserved as much as possible during these times of tight budgets. During the debate on the Integral Fast Reactor, a major Illinois research program on next-generation nuclear technology, it again was Senator JOHNSTON whose assistance and support were crucial to our victory. And it was his support that ensured that the jobs, research and hundreds of millions of dollars invested in IFR research were not wasted once the IFR program was eventually phased out.

There are other Illinois programs and priorities that would not have been possible without the assistance of Senator JOHNSTON, including preserving Federal funding for such critical Illinois projects as the reconstruction of the Chicago shoreline, the ongoing development the Deep Tunnel Flood Control System, and the Upper Mississippi River Feasibility Study.

I have always admired the distinguished Senator's skilled advocacy in defending his State's interests. During the Senate debate on ethanol, I found him a formidable opponent, as was demonstrated by the fact that it took a tie-breaking vote from the Vice President to reach a final decision on that issue. That tight margin exemplifies the kind of excellence and thoroughness Senator JOHNSTON brings to his legislative efforts.

This institution will lose a great asset with the retirement of the distinguished Senator from Louisiana. I wish him, and his family, the very best in their future endeavors.

RETIREMENT OF SENATOR SAM NUNN

Ms. MOSELEY-BRAUN. Mr. President, the news today is filled with the sad stories of foreign lands—war in Bosnia, tyranny in Iraq, terrorism in the Middle East. Here, in 1996, on the edge of the 21st century, we live in a world still plagued with fear and war.

These are not, however, the stories of America. America instead is the place where foreign lands turn for hope. When war-torn nations plead for assistance, America answers. When war-like nations terrorize, America responds. And when war-weary nations seek peace, America mediates.

In its 220th year, America stands strong in national security, military might, and world leadership. This is in large part due to one of the chief architects of American strength, Senator SAM NUNN of Georgia.

As a longtime member and former Chairman of the Senate Armed Service Committee, SAM NUNN is internationally recognized as the preeminent American legislator in all aspects of defense policy. His expertise is expansive, from major weapons programs, to manpower, and from defense research, to military benefits. He has faced national crises such as United States citizens held as hostages in Iran, humanitarian relief in Somalia, and war in Kuwait. From disarmament talks, to the demise of the communist eastern bloc, and to the reduced threat of nuclear war, SAM NUNN has helped craft the defense policies that kept America secure during the Soviet years, and left America the sole superpower in the post-cold war era.

In these times of tight budgets, Senator NUNN has also kept a watchful eye on the Pentagon, working to strike the right balance between defense spending and maintaining defense readiness. He has worked to increase fiscal responsibility in defense programs, streamline bureaucracy, and stop wasteful and excessive spending—putting an end to such controversies as the infamous hundred-dollar hammers.

Defense issues are not simple issues; they are divisive, and often, heated. Some decisions are not popular. I have always respected Senator NUNN for making these tough choices. SAM NUNN today is considered a model of American statesmanship and leadership. And that is because his record demonstrates the kind of excellence and thoroughness he brings to his legislative efforts.

After announcing his retirement, one Georgia public official described Senator NUNN's career as "a career that has a beginning and an end, no compromises, no ethical lapses. . .a monument to public service to young people for generations to come." I agree. His departure from the United States Senate leaves a great void of expertise—but in its place, leaves security for our citizens, and leadership for the world. As the longtime watch of Senator NUNN draws to a close, America remains strong.

RETIREMENT OF SENATOR BILL COHEN

Ms. MOSELEY-BRAUN. Mr. President, I rise today to say farewell to a colleague who is retiring from the Senate at the end of this Congress—Senator BILL COHEN of Maine. Senator COHEN's decision to retire will be a loss to Maine, a loss to this body, and a loss to the United States.

BILL COHEN began his career in public service over a quarter of a century ago, when he served a term on the Bangor City Council, and later as the Mayor of Bangor. In 1972 he was elected to the House of Representatives where he represented Maine for three terms. He was first elected to the United States Senate in 1978, and easily won two subsequent elections to that office.

Known for his independence and integrity, he first gained national prominence during his tenure on the House Judiciary Committee during the Watergate investigation. He was the first Republican to oppose President Nixon's attempt to provide edited rather than full transcripts of White House conversations to the committee. He later played an instrumental role in the Iran-Contra hearings.

In 1975 BILL COHEN began serving on the House Aging Committee, and later served as the Chairman of the Senate Special Committee on Aging, where I have had the pleasure of working with him. During his tenure on both the House and Senate committees he has tirelessly fought for issues affecting the elderly. During his tenure in the House he was the author of the Nursing Home Patients Bill of Rights. In 1995 he led the fight in the Senate for more stringent health and safety standards in nursing homes. And he also led a Senate investigation into questionable practices in the hearing aid industry. Due to these efforts, advocates of issues affecting the elderly have dubbed Senator COHEN "one of the most valuable and able and dedicated members" working on seniors issues.

BILL COHEN has also dedicated himself to making government work better. He wrote the Competition in Contracting Act which has saved the government billions of dollars through the use of competitive bidding for the vast majority of goods and services. He drafted comprehensive health care fraud reform legislation which passed the Senate in 1995 and which the Congressional Budget Office estimated would save billions of dollars. And he sponsored the Whistleblower Protection Act of 1989, which provided greater protection for Federal workers who "blow the whistle" on fraud or mismanagement that they witness in their agencies. Mr. President, these are only a few of Senator COHEN's accomplishments during his tenure in Congress, but they demonstrate his commitment to serving the people of Maine and the citizens of our country.

He has provided invaluable leadership in the area of race relations, and demonstrates daily his commitment to equality and opportunity for all Americans. During my first 2 years in the Senate, Senator COHEN joined in hearings on the effect of a popular music genre known as "gansta rap." Senator COHEN made it clear that while he respected the First Amendment claims of the young men who produced the music, all of us—parents, politicians and corporations —have a responsibility to address the ugly realities which that music reflected. He was right, once again, and our country has benefitted from the attention the music industry gave his admonitions.

The State of Maine and the Nation will lose a fine public servant when BILL COHEN retires at the end of this Session. The senior Senator from Maine has served his State and the country with integrity, leadership, and dignity. I wish Senator COHEN and his wife Janet all the best in the future.

TRIBUTE OF SENATOR MARK HATFIELD

Ms. MOSELEY-BRAUN. Mr. President, the dictionary defines a humanitarian as "a person devoted to promoting the welfare of humanity, especially though the elimination of pain and suffering." The picture next to the definition of humanitarian ought to be a picture of Senator HATFIELD.

Over these last 4 years, I have had the honor of working with and learning from the Senior Senator from Oregon. His commitment to the well-being of all people, his historic work to eliminate nuclear proliferation, and his commitment to his State of Oregon have made him a role model in the Senate.

Senator HATFIELD and I agree on many issues. He is a man who truly believes that education is even more important to our national defense than a missile system. His contributions to math and science education will leave a lasting mark on our Nation's youth and future scholars. As the steward of the Appropriations Committee, his steadfast commitment to education funding has earned him numerous professional accolades, my enduring admiration, and the thanks of millions of American schoolchildren and parents.

Where we don't agree, I have never ceased to respect his courage and integrity. We disagreed on the balanced budget amendment, but he earned my admiration as he voted against the amendment and against intense pressure from his party's leaders, because he believed it was the right thing to do. It was a mighty reminder of the strength of principle in men of character.

Senator HATFIELD's rational, bipartisan approach to issues, his respectful manner, and his quiet leadership will be sorely missed. The Senate is a body in which ideas are discussed, arguments made, and thoughtful votes cast. Senator HATFIELD exemplified this ideal of the Senate.

As a representative of the State of Illinois, I would also like to commend Senator HATFIELD for his taste in historical figures. As a Presidential history scholar, he has had the good sense to focus much of his attention on Illinois' native son, Abraham Lincoln.

President Lincoln could have been describing the character and approach of MARK HATFIELD when he said in his second inaugural address, "* * * with malice towards none, with charity for all, with firmness in the right as God gives us [or, in this case, him] to see the right."

The clearest praise for the work of Senator HATFIELD comes from the people of his State of Oregon. He has never, in his 46 years in public service, lost an election. The people of Oregon have supported him from the State Legislature to the state house to the Senate.

MARK HATFIELD is the longest serving Senator in the history of Oregon. I do not need to tell the people of Oregon that they are losing a great voice, but I will tell them that the Senate is losing a great man. We will all miss Senator HATFIELD, and I wish him well as he leaves the Senate after 30 years of dedicated work for the people of Oregon, and the people of the United States.

THE RETIREMENT OF SENATOR BILL BRADLEY

Ms. MOSELEY-BRAUN. Mr. President, I am honored, but also saddened, to be here speaking about one of our finest retiring colleagues, Senator BILL BRADLEY of New Jersey.

As one of the newest members of the Senate Finance Committee, I have had the privilege and the pleasure to work with Senator BRADLEY for only a brief period; however, I have had the opportunity to see what an enormous impact he has had, and I have had the benefit of his counsel and advice—something I will surely miss.

I am sure that all of my Colleagues share my sentiment regarding the outstanding leadership demonstrated by Senator BRADLEY in the Senate. Not only has he been an asset in his position as a Senator, but also in the various positions that he has held over his career. Mr. BRADLEY served this Nation in a number of ways during his lifetime. He represented this country as a member of the 1964 U.S. Olympic Team and from 1967 through 1978 he served this country in the Air Force Reserves. He was a very popular pro basketball player for the New York Knicks during the 1967 through 1977 seasons. BILL BRADLEY has truly been a public servant throughout his life, and it is my hope that after retiring from the Senate, he will go on to serve in another position of national leadership.

In the Senate, BILL BRADLEY has been a central figure in the national fiscal debate, on family issues and helping to strengthen the traditional Democratic values that define our Nation.

Senator BRADLEY is the author of many bills and resolutions here in the Senate but has distinguished himself as an author of a book that had a huge impact on tax policy in the United States, entitled, "The Fair Tax," published in 1982. "The Fair Tax" led directly to the most significant tax legislation of our generation, the 1986 Tax Reform Act. This Act ended the abusive tax shelter regime and closed huge loopholes in many areas of the tax law. Consequently, billions of dollars in revenue were saved. Although many in this body deserve credit, it was Senator BRADLEY's undying persistence and intellectual integrity that were largely responsible for that major tax reform.

Demonstrating a keen understanding and willingness to work on fiscal legislation has not hindered the Senator's efforts to advocate on behalf of families. He has used the bully pulpit of the Senate to hammer home the need for, among other things, more innovative methods of dealing with issues that affect the impoverished of our Nation.

The Senator has worked to prevent cuts in the earned income tax credit, which is legislation that truly helps families go from welfare to work. This measure has proved viable in rewarding work and providing tax relief to those who need it most.

Senator BRADLEY's hallmark, the Urban Community-Building Initiative, has served to revitalize national domestic policy. Three of the main features of this legislation: Community Policing, Community Schools, and Community Banking are essential to revitalizing our communities and restoring its economy, education, and

safety. The Senator's Self-Reliance Loans will pave the way for every student to have an opportunity to go on to seek a higher education. Countless future generations will reap the benefits of his education vision and it will prove a long-term benefit for America's economy as a whole.

As a Senator who is noted for having conviction in the face of compromise and faith above cynicism, Senator BRADLEY has shown himself to be a model for statesmanship and as a model for real leadership and real heroism—the kind that is the backbone of democracy. I believe that it was this conviction that has compelled him to speak out on the divisive issue of race. Senator BRADLEY has pushed all Americans on toward a higher calling—to look beyond race, religion, and creed but to relate on personal human levels. In doing so, he has been a true defender of American values, a true Senator for the people of the State of New Jersey, and the United States of America.

I, like many of my colleagues, hope that Senator BRADLEY will continue to serve the public on a national level. His is a voice that bridges community and generation gaps that is needed in the 21st century. As the Senator himself eloquently stated, "there are other ways to serve the country."

In short, Senator BRADLEY has been a model of senatorial excellence. His passion, commitment, and zealous representation will all be greatly missed, yet it is Senator BILL BRADLEY, the personal man, whom we shall miss most.

I know I will miss him greatly. He has always been willing to take the tough stand, to defend American principles and American values, and he has always worked to make sure that the opportunity to achieve the American Dream was available to every American, he has always demonstrated the kind of modesty, good judgment, and good humor that is the hallmark of real leadership.

Senator BILL BRADLEY has lived a life filled with accomplishment. I know that although he is leaving the Senate, his work on behalf of the American people is far from over. I look forward to seeing him continue his record of achievement in whatever new role he chooses.

SENATOR SHEILA FRAHM

Ms. MOSELEY-BRAUN. Mr. President, I would like to take the opportunity to say a few words about a Senator who has been with us briefly, but has nonetheless, made an impact on all of us in the Senate. SHEILA FRAHM joined us in June, bringing the number of women in the Senate to nine, an all time high. This is not the first time that Senator FRAHM has made history. Before her arrival in the Senate, she served as the first woman Lieutenant Governor in Kansas and prior to that, she was Kansas' first woman Senate majority leader.

However, Senator FRAHM is much more than a history maker. In her time here, she has proven how seriously she takes her job as a legislator and policymaker. The best example of this can be found in her voting record, which is perfect. And her voting record is perfect because SHEILA FRAHM decided that it was more important for her to remain in Washington to debate important issues like Kennedy-Kassebaum healthcare reform, and the welfare reform bill than for her to return to Kansas to campaign for reelection. SHEILA FRAHM proved just how senatorial she really is in prioritizing legislative business over her own political race.

I have every confidence that Senator FRAHM will continue to serve her beloved Kansas with the same calm, good humor, and steadfast dedication to duty which she exhibited here in the Senate of the United States.

THE RETIREMENT OF U.S. SENATOR AL SIMPSON

Ms. MOSELEY-BRAUN. Mr. President, as most of the Members of this body, I rise today to wish Senator AL SIMPSON a fond farewell. After 18 years of superior service to the State of Wyoming and his country, Senator SIMPSON is leaving the Senate to teach at Harvard.

AL SIMPSON was born in Cody, Wyoming, a town founded by Buffalo Bill. He comes from a family that helped settle much of northwestern Wyoming and has a long tradition of public service in Wyoming. His father was governor of Wyoming from 1954 to 1958, and served in the U.S. Senate from 1962 to 1966.

AL SIMPSON began his career in public service when he joined the Army, upon graduation from college. He served overseas in the 5th Infantry Division and in the 2nd Armored Division in the final months of the Army of Occupation in Germany. In 1956 he received an honorable discharge and returned to Wyoming to study law at the University of Wyoming. Upon graduation from law school he joined his father's law firm and practiced law in his hometown of Cody for 18 years.

Senator SIMPSON began his political career in Wyoming's State Legislature. In 1964 he was elected to the State Legislature as a State representative of his native Park County. He served there for 13 years.

In 1978, following in his father's footsteps, AL SIMPSON was elected U.S. Senator. He won subsequent reelection bids in 1984 and 1990, easily defeating all challengers.

In the U.S. Senate, he quickly became known for his support of Social Security reform, immigration reform, and veterans issues. I came to recognize his commitment to entitlement reform, when I had the pleasure of serving with him on the bipartisan Commission on Entitlement and Tax Reform in 1994. We also served on the Senate Finance Committee, which has jurisdiction over certain mandatory spending programs such as Social Security, Medicare, Medicaid, and Federal retirement. It was clear from day one that Senator SIMPSON believes that entitlement reform should be a priority in this country. Continuing his belief in reform, I understand that he plans to teach his students at Harvard about the state of entitlement programs, among other things.

During his career in public service, he has won a variety of honors, including the Distinguished Alumni of the University of Wyoming, honorary law degrees from Notre Dame, American University, and Rocky Mountain College, and a variety of awards including the Silver Helmet Award from AMVETS of World War II.

The Senate will miss a Member who is known for his support of bipartisan solutions. I have enjoyed working with ALAN SIMPSON. I will miss his wonderful sense of humor, his willingness to always say what he thinks, and his intellectual integrity. Although we have often disagreed, I am proud to have served with ALAN SIMPSON. I would like to add for the record my respect for this man who has served Wyoming and his country well. I wish Senator SIMPSON, his wife Ann, and his family all the best for the future.

RETIREMENT OF SENATOR DAVID PRYOR

Ms. MOSELEY-BRAUN. Mr. President, I would like to take this opportunity to pay tribute to my colleague and friend, Senator DAVID PRYOR, who will be leaving the Senate at the end of this term.

Public service is a strong tradition in Senator PRYOR's family. His mother was the first woman in Arkansas to run for public office after the passage of the 19th amendment, and both his father and grandfather were county sheriffs.

Senator PRYOR's own involvement in public service began early, as a congressional page. During that time, Senator PRYOR demonstrated both his commitment to a life of public service and his ability to accurately predict the future: As a teenage page, he placed a dime in one of the recesses of a column of the Capitol, and vowed that he would return for that coin as a Senator. Less than three decades later, after serving three terms in the Arkansas House, three terms in the U.S. House, and two terms as Governor of Arkansas, Senator PRYOR reclaimed his dime, which had somehow eluded cleaning crews for all those years.

I am grateful to have served with Senator PRYOR on two committees: Finance and Special Aging, where I have had the opportunity to observe first hand his dedication to serving the needs of our Nation's elderly and children in need, as well as his delightful creativity.

Senator PRYOR's commitment to serving the needs of older Americans was first demonstrated when he was a young freshman Congressman. He was innovative enough to host a number of catfish fundraising dinners to establish the House Select Committee on Aging, which he housed temporarily in a trailer. Senator PRYOR later served as the chairman of the Senate Special Aging Committee, where he concentrated his efforts on improving the quality of long term care in nursing homes. In his own inimitable fashion, he gathered information about these issues while serving as an undercover orderly in the 1960's. The most recent example of his creativity and his thoughtfulness came to fruition earlier this week, when the entire Senate sported bow ties in honor of my colleague, PAUL SIMON. Senator PRYOR arranged to have the ties made in Little Rock as a tribute to my fellow Illinoisian.

The Senate will not be the same without DAVID PRYOR. His presence in Washington will be sorely missed by Arkansas, by the Senate, and by me, personally. I am very proud to have served with him.

RETIREMENT OF SENATOR CLAIBORNE PELL

Ms. MOSELEY-BRAUN. Mr. President, in a very short time, the 104th Congress will adjourn for the last time and bring to a close this chapter of the magnificent career of Senator CLAIBORNE PELL.

Senator PELL's contributions to education have expanded opportunities and opened doors for millions of Americans. His foreign policy accomplishments have made the world a safer and more peaceful place for everyone. His grace, dignity, and dedication have reminded us all for the last 36 years what public service is all about.

Senator PELL has authored or been a major contributor to dozens of laws expanding educational opportunities. No single achievement stands out clearer than the creation of the Pell grant program in 1972. This program has given 60 million students access to the American Dream, by providing $70 billion in Federal grants to students to help them attend postsecondary educational institutions. This program, and the dozens of others that Senator PELL has contributed, are lasting tributes to his recognition that education is a public good, even more than it is a private benefit.

The rungs of the ladder of opportunity in America are crafted in the classroom. Quality, public education gave America a strong middle class, and has given children of all socioeconomic and racial backgrounds reason to believe that the promises of life, liberty, and the pursuit of happiness apply equally to each of them.

Educational attainment has always correlated to career earnings. The most educated Americans today earn 600 percent more than the least educated Americans.

Education is more important than ever. By the year 2000, the Department of Labor estimates that more than half of all new jobs will require an education beyond high school.

Senator PELL's contributions to education will continue to allow millions of Americans to access education beyond high school—assuring them that, at least by the accident of their family's wealth, they will not be shut out of the American dream.

He has also been a leader in foreign policy, carefully helping to steer American foreign policy from his seat on the Foreign Relations Committee for more than two decades. He has contributed to worldwide arms control, nuclear disarmament, and international law. He even helped to draft the original United Nations charter—shaping an organization that, 50 years later, helps to preserve peace and stability around the world.

The incomparable list of legislative and policy accomplishments aside, what I will miss most is the careful grace with which Senator PELL approaches his day-to-day work and his job as Senator. His presence is a constant reminder to me—and to many of my colleagues I know—of exactly why it is an honor to serve in this body as a U.S. Senator.

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM ACT

Mr. STEVENS. On October 4, 1995, 12 nations agreed in the Panama Declaration to create a binding regime to reduce dolphin mortality and conserve fish in the Eastern Tropical Pacific Ocean [ETP]. The Panama Declaration would cap dolphin mortality in the ETP at 5,000 dolphin per year, with the goal of eventually eliminating dolphin mortality. To put this cap in perspective, in the 1970's, over 300,000 dolphin were being killed each year.

We now have the opportunity to lock in the significant reductions that have been achieved in the killing of dolphins in the ETP. In addition, the Panama Declaration would create binding measures for fishing vessels for observers, bycatch reduction and measures to protect specific stocks of dolphins in the ETP.

On November 17, 1995, Senator BREAUX and I introduced S. 1420, the International Dolphin Conservation Program Act, to implement the Panama Declaration. Cosponsors include Senators CHAFEE, JOHNSTON, MOSELEY-BRAUN, MURKOWSKI, THURMOND, and SIMPSON. The Commerce Committee held a hearing on S. 1420 in April, and voted to approve the bill on June 6, 1996, without objection. At the hearing in April, we heard the testimony of Senators BOXER and BIDEN. The bill approved by the committee in June accommodated their concerns to the extent that we could. We've also tried to accommodate Senator SMITH, who raised some concerns about the legislation.

The bill passed by the House (H.R. 2823) addresses the concerns of the three Senators as much as possible too. If we make further changes, however, we will not fulfill the requirements of the Panama Declaration, and we may as well pass nothing. The new binding conservation measures under the Panama Declaration can only take effect with the specific changes to U.S. law in S. 1420 and H.R. 2823. The two key changes to U.S. law are: (1) a change to allow tuna caught in compliance with the Panama Declaration (including through the encirclement of dolphins) to be imported into the United States; and (2) a change so that "dolphin safe" in the U.S. will mean tuna caught in a set in which no dolphin mortality occurred (rather than through non-encirclement).

S. 1420 and H.R. 2823 would make these changes and would allow the new regime envisioned in the Panama Declaration to go forward. If the U.S. does not make the changes, other nations will move forward without adequate conservation measures—and progress in protecting dolphins in the ETP will be lost.

Our legislation would guarantee U.S. consumers that no dolphin were killed during the harvest of tuna that is labeled as "dolphin safe." Under existing law, dolphins may have been killed, but as long as the tuna was not harvested by intentionally encircling dolphins, it can be labeled as "dolphin safe." Our legislation is supported by: (1) U.S. tuna boat owners; (2) the mainstream environmental community including Greenpeace, the Center for Marine Conservation, the Environmental Defense Fund, the National Wildlife Federation, and the World Wildlife Fund; (3) the American Sportfishing Association; (4) U.S. Labor, including the National Fishermen's Union, Seafarers International, and the United Industrial Workers; (5) the 12 nations who signed the Panama Declaration (Belize, Columbia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, Vanuatu, and Venezuela); and (6) the Administration.

I ask for unanimous consent that the letter I received from Vice President GORE in support of S. 1420 be printed in the RECORD.

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

THE VICE PRESIDENT,
Washington, June 3, 1996.

Hon. TED STEVENS,
Chairman, Subcommittee on Oceans and Fisheries, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR TED: I am writing to thank you for your leadership on the International Dolphin Conservation Program Act, S. 1420. As you know, the Administration strongly supports this legislation, which is essential to the protection of Dolphins and other marine life in the Eastern Tropical Pacific.

In recent years, we have reduced dolphin mortality in the Eastern Tropical Pacific tuna fishery far below historic levels. Your legislation will codify an international agreement to lock these gains in place, further reduce dolphin mortality, and protect other marine life in the region. This agreement was signed last year by the United States and 11 other nations, but will not take effect unless your legislation is enacted into law.

As you know, S. 1420 is supported by major environmental groups, including Greenpeace, the World Wildlife Fund, the National Wildlife Federation, the Center for Marine Conservation, and the Environmental Defense Fund. The legislation is also supported by the U.S. fishing industry, which has been barred from the Eastern Tropical Pacific tuna fishery.

Opponents of this legislation promote alternative fishing methods, such as "log fishing" and "school fishing," but these are environmentally unsound. These fishing methods involve unacceptably high by-catch of juvenile tunas, billfish, sharks, endangered sea turtles and other species, and pose long-term threats to the marine ecosystem.

I urge your colleagues to support this legislation. Passage of this legislation this session is integral to ensure implementation of an important international agreement that protects dolphins and other marine life in the Eastern Tropical Pacific.

Sincerely,

AL GORE.

Mr. STEVENS. I urge other Senators to help us enact this important legislation before the 104th Congress adjourns.

Mr. President, I am greatly disappointed by the efforts that have been made to prevent S. 1420 and H.R. 2823 from being enacted this Congress. As I mentioned in my statement, this legislation would implement the Panama Declaration, an important step forward in the protection of dolphins during tuna fishing in the eastern tropical Pacific Ocean. Because of the Senate floor time needed for the appropriations bills, we simply have not had the time to overcome the procedural obstacles that opponents of S. 1420 have used, or would attempt to use, to try to stop S. 1420.

Mr. BREAUX. I agree with the Senator from Alaska. By stopping our bill, opponents of S. 1420 and H.R. 2823 have sent a dangerous message to the other nations fishing in the eastern tropical Pacific Ocean. That message could have dire consequences on dolphin conservation. If we were from those nations, we might feel the same way. They have satisfied the conservation goals set by the United States in the last 10 years, and now the United States has turned its back on them.

Mr. LOTT. I share the disappointment and concern of the Senators from Alaska and Louisiana. Their bill, S. 1420, as well as the House companion, H.R. 2823, have broad bipartisan support in the Congress and the support of the U.S. tuna boat owners, the mainstream environmental community, and the Administration. Last week Senator BOXER objected to our motion to consider H.R. 2823. Because of the time constraints we face in the closing days of the 104th Congress, there is no way to overcome her objections—even though a substantial majority of the Senate would probably vote for this legislation.

Mr. BREAUX. It is truly unfortunate that the bill will not pass this year, but the issue will not just disappear. We will do what we can to convince the signatory nations of the Panama Declaration not to abandon the Declaration, and we intend to pursue the enactment of these changes early in the next Congress.

Mr. STEVENS. I concur. Though we have been unsuccessful in enacting S. 1420 and H.R. 2823 before the close of the 104th Congress, it is our intent to reintroduce the bill at the beginning of the 105th Congress and seek its expeditious enactment. At the beginning of the next Congress, we will have the time to overcome procedural measures used by opponents.

Mr. LOTT. It pleases me to hear the Senator from Alaska and the Senator from Louisiana commit to pursuing this legislation in the next Congress. I will do everything I can to provide time on the Senate floor to allow a vote on this important legislation as soon as the legislation is ready at the beginning of the year.

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.)

MESSAGES FROM THE HOUSE

At 10:03 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1332. An act to make certain technical changes affecting United States territories, and for other purposes.

H.R. 4233. An act to provide for appropriate implementation of the Metric Conversion Act of 1975 in Federal construction projects, and for other purposes.

H.R. 4236. An act to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, and for other purposes.

H.R. 4278. An act making omnibus consolidated appropriations for fiscal year ending September 30, 1997, and for other purposes.

H.R. 4282. An act to amend the National Defense Authorization Act for Fiscal Year 1993 to make a technical correction relating to the provision of Department of Defense assistance to local educational agencies.

H.R. 4283. An act to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes.

H.J. Res. 198. Joint resolution appointing the day for the convening of the first session of the One Hundred Fifth Congress and the day for the counting in Congress of the electoral votes for President and Vice President cast in December 1996.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 230. Concurrent resolution providing for the sine die adjournment of the second session of the One Hundred Fourth Congress.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2700) to designate the building located at 8302 FM 327, Elmendorf, TX, which houses operations of the U.S. Postal Service, as the "Amos F. Longoria Post Office Building."

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2779) to provide for appropriate implementation of the Metric Conversion Act of 1975 in Federal construction projects, and for other purposes.

The message further 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. 3005) to amend the Federal securities laws in order to promote efficiency and capital formation in the financial markets, and to amend the Investment Company Act of 1940 to promote more efficient management of mutual funds, protect investors, and provide more effective and less burdensome regulation.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3118) to amend title 38, United States Code, to reform eligibility for health care provided by the Department of Veterans Affairs, to authorize major medical facility construction projects for the Department,

to improve administration of health care by the Department, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3458) to increase, effective as of December 1, 1996, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain service-connected disabled veterans, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3815) to make technical corrections and miscellaneous amendments to trade laws.

The message further 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. 3610) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

H.R. 3723. An act to amend title 18, United States Code, to protect proprietary economic information, and for other purposes.

The message further announced that the House has agreed to the resolution (H. Res. 554) that the Senate amendment to the bill (H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes, in the opinion of the 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 House and that such bill with the Senate amendment thereto be respectfully returned to the Senate with a message communicating the resolution.

The message also announced that the House has passed the following bills, without amendment:

S. 1711. An act to amend title 38, United States Code, to improve the benefits programs administered by the Secretary of Veterans Affairs, to provide for a study of the Federal programs for veterans, and for other purposes.

S. 1965. An act to prevent the illegal manufacturing and use of methamphetamine.

S. 1973. An act to provide for the settlement of the Navajo-Hopi land dispute, and for other purposes.

S. 2153. An act to designate the United States Post Office building located in Brewer, Maine, as the "Joshua Lawrence Chamberlain Post Office Building", and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 657. An act to extend the deadline under the Federal Power Act applicable to the construction of three hydroelectric projects in the State of Arkansas.

H.R. 680. An act to extend the time for construction of certain FERC licensed hydro projects.

H.R. 1014. An act to authorize extension of time limitation for a FERC-issued hydroelectric license.

H.R. 1290. An act 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.

H.R. 1335. An act to provide for the extension of a hydroelectric project located in the State of West Virginia.

H.R. 1366. An act to authorize the extension of time limitation for the FERC-issued hydroelectric license for the Mt. Hope Waterpower Project.

H.R. 1791. An act to amend Title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

H.R. 2501. An act to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes.

H.R. 2630. An act to extend the deadline for commencement of a hydroelectric project in the State of Illinois.

H.R. 2695. An act to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania.

H.R. 2773. An act to extend the deadline under the Federal Power Act applicable to the construction of two hydroelectric projects in North Carolina, and for other purposes.

H.R. 2816. An act 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.

H.R. 2869. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky.

H.R. 3259. An act to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community and Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.R. 3546. An act to direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina, and for other purposes.

H.R. 3877. An act to designate the United States Post Office building located at 351 West Washington Street in Camden, Arkansas, as the "David H. PRYOR Office Building".

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 2:31 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1577. An act to authorize appropriations for the National Historical Publications and RECORDS Commission for fiscal years 1998, 1999, 2000, 2001.

S. 2100. An act to provide for the extension of certain authority for the Marshal of the Supreme Court and Supreme Court Police.

H.R. 1011. An act to extend the dealine under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Ohio.

H.R. 1031. An act for the relief of Oscar Salas-Velasquez.

H.R. 1514. An act to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane cosumers and the public, and for other purposes.

H.R. 1823. An act to amend the Central Utah Project Completion Act to direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and the Central Utah Water Conservance District dated December 28, 1965, and November 26, 1985, and for other purposes.

H.R. 2700. An act to designate the building located at 8302 FM 327, Elmendorf, Texas, which houses the operations of the United States Postal Service, as the "Amos F. Longoria Post Office Building."

H.R. 2779. An act to provide for appropriate implementation of the Metric Conversion Act of 1975 in Federal construction projects, and for other purposes.

H.R. 2967. An act to extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978, and for other purposes.

H.R. 2988. An act to amend the Clean Air act to provide that traffic signal synchronization projects are exempt from certain requirements of Environmental Protection Agency Rules.

H.R. 3074. An act 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.

H.R. 3166. An act to amend title 18, United States Code, with respect to the crime of false statement in a Government matter.

H.R. 3458. An act to increase, effective as of December 1, 1996, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.

H.R. 3660. An act to make amendments to the Reclamation Wastewater and Groundwater Study and Facilities Act, and for other purposes.

H.R. 3871. An act to waive temporarily the Medicaid enrollment composition rule for certain health maintenance organizations.

H.R. 3916. An act to make available certain Voice of America and Radio Marti multilingual computer readable text and voice recordings.

H.R. 3973. An act to provide for a study of the recommendations of the joint Federal-State Commission on Policies and Programs Affecting Alaska Natives.

H.R. 4138. An act to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes.

H.R. 4167. An act to provide for the safety of journeyman boxers, and for other purposes.

H.R. 4168. An act to amend the Helium Act to authorize the Secretary to enter into agreements with private parties for the recovery and disposal of helium on Federal lands, and for other purposes.

H.J. Res. 197. Joint resolution waiving certain enrollment requirements with respect to any bill or joint resolution of the One Hundred Fourth Congress making general or continuing appropriations for fiscal year 1997.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore (Mr. THURMOND).

At 3:54 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the resolution (H. Res. 553) that the Honorable ROBERT S. WALKER, a Representative from the Commonwealth of Pennsylvania, be, and he is hereby, elected Speaker pro tempore through the legislative day of Tuesday, October 1, 1996.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 4:02 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following bill and joint resolution:

S. 1931. An act to provide that the United States Post Office and Courthouse building located at 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the "L. Clure Morton United States Post Office and Courthouse".

S.J. Res. 64. Joint resolution to commend Operative Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore (Mr. THURMOND).

ENROLLED BILL SIGNED

At 7:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 919. An act to modify and reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

ENROLLED BILL SIGNED

At 7:36 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3610. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on September 30, 1996, he had presented to the President of the United States, the following enrolled bills and joint resolution:

S. 919. An act to modify and reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes.

S. 1931. An act to provide that the United States Post Office and Courthouse building located at 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the "L. Clure Morton United States Post Office and Courthouse."

S. 2100. An act to provide for the extension of certain authority for the Marshal of the Supreme Court and Supreme Court Police.

S. 1577. An act to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1998, 1999, 2000, 2001.

S.J. Res. 64. A joint resolution to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1420. A bill to amend the Marine Mammal Protection Act of 1972 to support International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes (Rept. No. 104–373).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (H.R. 531) to designate the Great Western Scenic Trail as a study trail under the National Trails System Act, and for other purposes (Rept. No. 104–374).

Report to accompany the bill (S. 608) to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and for other purposes (Rept. No. 104–375).

Report to accompany the bill (S. 695) to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and for other purposes (Rept. No. 104–376).

Report to accompany the bill (S. 902) to amend Public Law 100–479 to authorize the Secretary of the Interior to assist in the construction of a building to be used jointly by the Secretary for park purposes and by the city of Natchez as an intermodal transportation center, and for other purposes (Rept. No. 104–377).

Report to accompany the bill (S. 951) to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work (Rept. No. 104–378).

Report to accompany the bill (S. 1127) to establish the Vancouver National Historic Reserve, and for other purposes (Rept. No. 104–379).

Report to accompany the bill (S. 1649) to extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes (Rept. No. 104–380).

Report to accompany the bill (S. 1699) to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes (Rept. No. 104–381).

Report to accompany the bill (S. 1706) to increase the amount authorized to be appropriated for assistance for highway relocation with respect to the Chickamauga and Chattanooga National Military Park in Georgia, and for other purposes (Rept. No. 104–382).

Report to accompany the bill (S. 1719) to require the Secretary of the Interior to offer to sell to certain public agencies the indebtedness representing the remaining repayment balance of certain Bureau of Reclamation projects in Texas, and for other purposes (Rept. No. 104–383).

Report to accompany the bill (S. 1809) entitled the "Aleutian World War II National Historic Area Act of 1996" (Rept. No. 104–384).

Report to accompany the bill (S. 1844) to amend the Land and Water Conservation Fund Act to direct a study of the opportunities for enhanced water based recreation and for other purposes (Rept. No. 104–385).

Report to accompany the bill (S. 1921) to authorize the Secretary of the Interior to transfer certain facilities at the Minidoka project to the Burley Irrigation District, and for other purposes (Rept. No. 104–386).

Report to accompany the bill (S. 1986) to provide for the completion of the Umatilla Basin Project, and for other purposes (Rept. No. 104–387).

Report to accompany the bill (S. 2015) to convey certain real property located within the Carlsbad Project in New Mexico to the Carlsbad Irrigation District (Rept. No. 104–388).

Report to accompany the bill (H.R. 109) to improve the National Park System in the Commonwealth of Virginia (Rept. No. 104–389).

Report to accompany the bill (H.R. 1786) to amend section 1951 (commonly called the Hobbs Act) of title 18 of the United States Code to prevent violence (Rept. No. 104–390).

Report to accompany the bill (H.R. 2636) to transfer jurisdiction over certain parcels of Federal real property located in the District of Columbia, and for other purposes (Rept. No. 104–391).

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1221. A bill to authorize appropriations for the Legal Services Corporation Act, and for other purpose (Rept. No. 104–392).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources:

NATIONAL SCIENCE FOUNDATION

John A. Armstrong, of Massachusetts, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

M. R. C. Greenwood, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Stanley Vincent Jaskolski, of Ohio, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Vera C. Rubin, of the District of Columbia, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Bob H. Suzuki, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Mary K. Gaillard, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Eamon M. Kelly, of Louisiana, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Richard A. Tapia, of Texas, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD

Anthony R. Sarmiento, of Maryland, to be a Member of the National Institute for Literacy Advisory Board for a term expiring September 22, 1998.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arthur I. Blaustein, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2002.

LEGAL SERVICES CORPORATION

Ernestine P. Watlington, of Pennsylvania, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1999. (Reappointment)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Donna Holt Cunninghame, of Maryland, to be Chief Financial Officer, Corporation for National and Community Service. (New Position)

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. SIMON (for himself and Mr. KENNEDY):

S. 2161. A bill reauthorizing programs for the Federal Aviation Administration, and for other purposes; read the first time.

By Mr. DORGAN (for himself, Mr. DASCHLE, and Mr. PRESSLER):

S. 2162. A bill to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and for other purposes; to the Committee on Indian Affairs.

By Mr. MOYNIHAN:

S. 2163. A bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of ammunition capable of piercing police body armour; to the Committee on the Judiciary.

By Mr. LUGAR:

S. 2164. A bill to establish responsibility and accountability for information technology systems of the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SPECTER:

S. 2165. A bill to require the President to impose economic sanctions against countries that fail to eliminate corrupt business practices, and for other purposes; to the Committee on Foreign Relations.

By Mr. HATFIELD:

S. 2166. A bill to increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by enabling state, local, and tribal governments and private, nonprofit organizations to use amounts available under certain Federal assistance programs in accordance with approved flexibility plans; to the Committee on Governmental Affairs.

By Mr. KERREY:

S. 2167. A bill to require that health plans provide coverage for medically necessary health care and related services for children who are age 3 or younger, and for other purposes; to the Committee on Labor and Human Resources.

S. 2168. A bill to amend title 49, United States Code, to provide protection for airline employees who provide certain air safety information, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:

S. 2169. A bill to promote the survival of significant cultural resources that have been identified as endangered and that represent important economic, social, and educational assets of the United States and the world, to permit United States professionals to participate in the planning and implementation of projects worldwide to protect the resources, and to educate the public concerning the importance of cultural heritage to the fabric of life in the United States and throughout the world, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. KASSEBAUM:

S. 2170. A bill to establish spending limits for entitlement programs and other mandatory spending programs, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly.

By Mr. CONRAD (for himself and Mr. KERREY):

S. 2171. A bill to provide reimbursement under the medicare program for telehealth services, and for other purposes; to the Committee on Finance..

By Mr. MURKOWSKI:

S. 2172. A bill to provide for the appointment of a Special Master to meet with interested parties in Alaska and make recommendations to the Governor of Alaska, The Alaska State Legislature, The Secretary of Agriculture, The Secretary of the Interior, and the United States Congress on how to return management of fish and game resources to the State of Alaska and provide for subsistence uses by Alaskans, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN:

S. 2173. A bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes; to the Committee on Finance.

By Mr. CRAIG:

S. 2174. A bill to amend the Immigration and Nationality Act with respect to the admission of temporary H-2A workers; to the Committee on the Judiciary.

By Mr. KERREY (for himself and Mr. SIMPSON):

S. 2175. A bill to provide for the long-range solvency of the old-age, survivors, and disability insurance program, and for other purposes; to the Committee on Finance.

S. 2176. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide for personal investment plans funded by employee security payroll deductions; to the Committee on Finance.

By Mr. SANTORUM:

S. 2177. A bill to authorize the Small Business Administration to provide financial and business development assistance to military reservists' small businesses, and for other purposes; to the Committee on Small Business.

By Mrs. KASSEBAUM (for herself, Mr. KENNEDY, Mr. DODD, Mr. DEWINE, Ms. MIKULSKI, and Mr. SIMON):

S. 2178. A bill to amend the Federal Food, Drug, and Cosmetic Act to allow for additional deferred effective dates for approval of applications under the new drugs provisions, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. BOXER:

S. 2179. A bill to protect children and other vulnerable subpopulations from exposure to certain environmental pollutants, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KOHL (for himself and Mr. SHELBY):

S. 2180. A bill to establish felony violations for the failure to pay legal child support obligations and for other purposes; to the Committee on the Judiciary.

By Mr. DORGAN:

S. 2181. A bill to provide for more effective management of the National Grasslands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself and Mr. CONRAD):

S. 2182. A bill to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KYL (for himself, Mrs. FEINSTEIN, and Mr. EXON):

S.J. Res. 65. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROTH (for himself, Mr. THOMAS, and Mr. NUNN):

S. Res. 306. A resolution to state the sense of the Senate that the Treaty of Mutual Cooperation and Security Between the United States of America and Japan is essential for furthering the security interests of the United States, Japan and the nations of the Asia-Pacific and that the people of Okinawa deserve recognition for their contributions toward ensuring the Treaty's implementation; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself, Mr. DASCHLE, and Mr. PRESSLER):

S. 2162. A bill to provide for the disposition of certain funds appropriated to pay judgments in favor of the Mississippi Sioux Indians, and for other purposes; to the Committee on Indian Affairs.

THE MISSISSIPPI SIOUX TRIBES JUDGMENT FUND DISTRIBUTION ACT OF 1996

Mr. DORGAN. Mr. President, I rise today to introduce legislation which will fairly resolve a longstanding problem with respect to a judgment distribution to Sioux tribes in the Dakotas and Montana. Specifically, the bill

would distribute the accrued interest on funds awarded by the Indian Claims Commission in 1967 to the Mississippi Sioux tribes. I am pleased to be joined by Senators DASCHLE and PRESSLER in introducing this measure.

In 1972, Congress enacted legislation that authorized the Secretary of the Interior to distribute 75 percent of a $5,900,000 judgment award to the Devils Lake Sioux Tribe of North Dakota, the Sisseton and Wahpeton Sioux Tribe of North and South Dakota, and the Assiniboine and Sioux Tribes of the Fort Peck Reservation in Montana. The remaining 25 percent was to be distributed to individuals who could trace their lineal ancestry to a member of the aboriginal Sisseton and Wahpeton Sioux Tribe.

The three Sioux tribes received their respective shares of the judgment award by the mid-1970's. To date, though, the funds allocated for the lineal descendants have never been distributed. This has resulted in a situation where the accrued interest on the original principal of approximately $1.5 million has now grown to more than $13 million.

If the 1,969 lineal descendants identified by the Department of the Interior receive per capita payments, they would receive more than 18 times what the 11,829 enrolled tribal members received in the 1970's.

In 1987, the three Sioux tribes filed suit in Federal court to challenge the constitutionality of the lineal descendancy provisions of the 1972 Act. This litigation is currently in its second appeal. In 1992, Congress enacted legislation which authorized the Attorney General to settle the case on any terms agreed to by the parties involved. However, the Department of Justice has refused to proceed with any settlement negotiations and has taken the position that the 1992 law did not authorize the Department to settle the case on any terms other than those laid out in the original 1972 act. While I believe this interpretation flies in the face of congressional intent, the Department has been unwilling to actively pursue this issue.

The legislation I am introducing on behalf of the three Sioux tribes represents a reasonable solution to this matter and a substantial compromise on behalf of the tribes. In the past, the tribes have sought to repeal the lineal descendancy provisions of the 1972 act altogether, and, in 1986, a bill was reported by the Senate Committee on Indian Affairs which would have achieved this goal.

In contrast, the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1996 would retain the undistributed principal for the lineal descendants and distribute the accrued interest to the three Sioux tribes. There would be no per capita payments of the interest, which would have to be used by the tribes for economic development, resource development, or for other programs that collectively benefit tribal members, such as educational and social welfare programs. In addition, the legislation contains an audit requirement by the Secretary of the Interior to ensure that the funds are properly managed.

I believe that this legislation is fundamentally fair. It keeps the commitment that the Federal Government made to provide compensation to lineal descendants while ensuring that most of the remaining undistributed funds go to the tribes. It was, after all, the tribes who were wronged and who should be compensated for their losses.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD.

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

S. 2162

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 "Mississippi Sioux Tribes Judgment Fund Distribution Act of 1996".

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) COVERED INDIAN TRIBE.—The term "covered Indian tribe" means an Indian tribe listed in section 4(a).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) TRIBAL GOVERNING BODY.—The term "tribal governing body" means the duly elected governing body of a covered Indian tribe.

SEC. 3. DISTRIBUTION TO, AND USE OF CERTAIN FUNDS BY, THE SISSETON AND WAHPETON TRIBES OF SIOUX INDIANS.

Notwithstanding any other provision of law, including Public Law 92–555 (25 U.S.C. 1300d et seq.), any funds made available by appropriations under Public Law 90–352 to the Sisseton and Wahpeton Tribes of Sioux Indians to pay a judgment in favor of the Tribes in Indian Claims Commission dockets numbered 142 and 359, including interest, after payment of attorney fees and other expenses, that, as of the date of enactment of this Act, have not been distributed, shall be distributed and used in accordance with this Act.

SEC. 4. DISTRIBUTION OF FUNDS TO TRIBES.

(a) IN GENERAL.—Subject to section 5, as soon as practicable after the date that is 1 year after the date of enactment of this Act, the Secretary shall distribute an aggregate amount, equal to the funds described in section 3 reduced by $1,469,831.50, as follows:

(1) 28.9276 percent of such amount shall be distributed to the tribal governing body of the Devils Lake Sioux Tribe of North Dakota.

(2) 57.3145 percent of such amount shall be distributed to the tribal governing body of the Sisseton and Wahpeton Sioux Tribe of South Dakota.

(3) 13.7579 percent of such amount shall be distributed to the tribal governing body of the Assiniboine and Sioux Tribes of the Fort Peck Reservation in Montana, as designated under subsection (b).

(b) TRIBAL GOVERNING BODY OF ASSINIBOINE AND SIOUX TRIBES OF FORT PECK RESERVATION.—For purposes of making distributions of funds pursuant to this Act, the Sisseton and Wahpeton Sioux Council of the Assiniboine and Sioux Tribes shall act as the governing body of the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

SEC. 5. ESTABLISHMENT OF TRIBAL TRUST FUNDS.

(a) IN GENERAL.—As a condition to receiving funds distributed under section 4, each tribal governing body referred to in section 4(a) shall establish a trust fund for the benefit of the covered Indian tribe under the jurisdiction of that tribal governing body, consisting of—

(1) amounts deposited into the trust fund; and

(2) any interest that accrues from investments made from amounts deposited into the trust fund.

(b) TRUSTEE.—Each tribal governing body that establishes a trust fund under this section shall—

(1) serve as the trustee of the trust fund; and

(2) administer the trust fund in accordance with section 6.

SEC. 6. USE OF DISTRIBUTED FUNDS.

(a) PROHIBITION.—No funds distributed to a covered Indian tribe under section 4 may be used to make per capita payments to members of the covered Indian tribe.

(b) PURPOSES.—The funds distributed under section 4 may be used by a tribal governing body referred to in section 4(a) only for the purpose of making investments or expenditures that the tribal governing body determines to be reasonably related to—

(1) economic development that is beneficial to the covered Indian tribe;

(2) the development of resources of the covered Indian tribe; or

(3) the development of a program that is beneficial to members of the covered Indian tribe, including educational and social welfare programs.

(c) AUDITS.—

(1) IN GENERAL.—The Secretary shall conduct and annual audit to determine whether each tribal governing body referred to in section 4(a) is managing the trust fund established by the tribal governing body under section 5 in accordance with the requirements of this section.

(2) ACTION BY THE SECRETARY.—

(A) IN GENERAL.—If, on the basis of an audit conducted under paragraph (1), the Secretary determines that a covered Indian tribe is not managing the trust fund established by the tribal governing body under section 5 in accordance with the requirements of this section, the Secretary shall require the covered Indian tribe to take remedial action to achieve compliance.

(B) APPOINTMENT OF INDEPENDENT TRUSTEE.—If, after a reasonable period of time specified by the Secretary, a covered Indian tribe does not take remedial action under subparagraph (A), the Secretary, in consultation with the tribal governing body of the covered Indian tribe, shall appoint an independent trustee to manage the trust fund established by the tribal governing body under section 5.

SEC. 7. EFFECT OF PAYMENTS TO COVERED INDIAN TRIBES ON BENEFITS.

(a) IN GENERAL.—A payment made to a covered Indian Tribe or an individual under this Act shall not—

(1) for purposes of determining the eligibility for a Federal service or program of a covered Indian tribe, household, or individual, be treated as income or resources; or

(2) otherwise result in the reduction or denial of any service or program to which, pursuant to Federal law (including the Social Security Act (42 U.S.C. 301 et seq.)), the covered Indian tribe, household, or individual would otherwise be entitled.

(b) TAX TREATMENT.—A payment made to a covered Indian tribe or individual under this Act shall not be subject to any Federal or State income tax.

SEC. 8. DISTRIBUTION OF FUNDS TO LINEAL DESCENDANTS.

Not later than 1 year after the date of enactment of this Act, of the funds described in section 3, the Secretary shall, in the manner prescribed in section 202(c) of Public Law 92-555 (25 U.S.C. 1300d-4(c)), distribute an amount equal to $1,469,831.50 to the lineal descendants of the Sisseton and Wahpeton Tribes of Sioux Indians.

Mr. PRESSLER. Mr. President, I rise to speak on legislation that the senior Senator from North Dakota is introducing today that will provide for the distribution of a judgment to the Sisseton-Wahpeton Sioux Tribe and lineal descendants of tribe members.

This issue has been in litigation for many years and has been previously dealt with by Congress. Still, the issue remains unresolved.

I want to see this matter taken care of to the satisfaction of all parties involved, once and for all. I believe the legislation the Senator from North Dakota is sponsoring is an essential first step in getting the job done. While perhaps not the ultimate resolution of the issue, the legislation should be carefully considered by Congress. All parties involved deserve a chance to be heard.

As I believe thoughtful, bipartisan consideration of this bill will help push this issue off dead center and rolling toward resolution, I have decided to cosponsor this legislation. I urge my colleagues to give it serious consideration when the measure appears before them in committee and on the Senate floor.

By Mr. MOYNIHAN:

S. 2163. A bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of ammunition capable of piercing police body armor; to the Committee on the Judiciary.

LAW ENFORCEMENT OFFICERS PROTECTION ACT OF 1996

Mr. MOYNIHAN. Mr. President, the legislation I am introducing today would amend Title 18 of the United States Code to strengthen the existing prohibition on handgun ammunition capable of penetrating police body armor, commonly referred to as bulletproof vests. This provision would require the Secretary of the Treasury and the Attorney General to develop a uniform ballistics test to determine with precision whether ammunition is capable of penetrating police body armor. The bill also prohibits the manufacture and sale of any handgun ammunition determined by the Secretary of the Treasury and the Attorney General to have armor-piercing capability.

I am encouraged that President Clinton has taken an interest in this subject. In a statement similar to remarks he has made many times recently at campaign appearances around the country, President Clinton said to an audience in Cincinnati, OH, on September 16, 1996:

> So that's my program for the future—do more to break the gangs, ban those cop killer bullets, drug testing for parolees, improve the opportunities for community-based strategies that lower crime and give our kids something to say yes to.

Mr. President, it has been almost 15 years since I first introduced legislation in the Senate to outlaw armor-piercing, or cop-killer, bullets. In 1982, Phil Caruso of the Patrolman's Benevolent Association of New York City alerted me to the existence of a Teflon-coated bullet capable of penetrating the soft body armor police officers were then beginning to wear. Shortly thereafter, I introduced the Law Enforcement Officers Protection Act of 1982 to prohibit the manufacture, importation, and sale of such ammunition.

At that time, armor-piercing bullets—most notably the infamous "Green Hornet"—were manufactured with a solid steel core. Unlike the softer lead composition of most other ammunition, this hard steel core prevented these rounds from deforming at the point of impact—thus permitting the rounds to penetrate the 18 layers of Kevlar in a standard-issue police vest or flak-jacket. These bullets could go through a bullet-proof vest like a hot knife through butter. My legislation simply banned any handgun ammunition made with a core of steel or other hard metals.

Despite the strong support of the law enforcement community, it took 4 years before this seemingly noncontroversial legislation was enacted into law. The National Rifle Association initially opposed it—that is, until the NRA realized that a large number of its members were themselves police officers who strongly supported banning these insidious bullets. Only then did the NRA lend its grudging support. The bill passed the Senate on March 6, 1986 by a vote of 97 to 1, and was signed by President Reagan on August 8, 1986 (Public Law 99-408).

That 1986 act served us in good stead for 7 years. To the best of my knowledge, not a single law enforcement officer was shot with an armor-piercing bullet. Unfortunately, the ammunition manufacturers eventually found a way around the 1986 law. By 1993, a new Swedish-made armor-piercing round, the M39B, had appeared. This pernicious bullet evaded the 1986 statute's prohibition because of its unique composition. Like most common ammunition, it had a soft lead core, thus exempting it from the 1986 law. But this soft core was surrounded by a heavy steel jacket, solid enough to allow the bullet to penetrate body armor. Once again, our Nation's law enforcement officers were at risk. Immediately upon learning of the existence of the new Swedish round, I introduced a bill to ban it.

Another protracted series of negotiations ensued before we were able to update the 1986 statute to cover the M39B. We did it with the support of law enforcement organizations, and with technical assistance from the Bureau of Alcohol, Tobacco and Firearms. In particular, James O. Pasco, Jr., then the Assistant Director of Congressional Affairs at BATF, worked closely with me and my staff to get it done. The bill passed the Senate by unanimous consent on November 19, 1993 as an amendment to the 1994 crime bill.

Despite these legislative successes, it was becoming evident that continuing innovations in bullet design would result in new armor-piercing rounds capable of evading the existing ban. It was at this time that some of us began to explore in earnest the idea of developing a new approach to banning these bullets based on their performance, rather than their physical characteristics. Mind, this concept was not entirely new; the idea had been discussed during our efforts in 1986, but the NRA had been immovable on the subject. The NRA's leaders, and their constituent ammunition manufacturers, felt that any such broad-based ban based on a bullet performance standard would inevitably lead to the outlawing of additional classes of ammunition. They viewed it as a slippery slope, much as they have regarded the assault weapons ban as a slippery slope. The NRA had agreed to the 1986 and 1993 laws only because they were narrowly drawn to cover individual types of bullets.

And so in 1993 I asked the ATF for the technical assistance necessary to write into law an armor-piercing bullet performance standard. At the time, however, the experts at the ATF informed us that this could not be done. They argued that it was simply too difficult to control for the many variables that contribute to a bullet's capability to penetrate police body armor. We were told that it might be possible in the future to develop a performance-based test for armor-piercing capability, but at the time we had to be content with the existing content-based approach.

Two years passed and the Office of Law Enforcement Standards of the National Institute of Standards and Technology wrote a report describing the methodology for just such a armor-piercing bullet performance test. The report concluded that a test to determine armor-piercing capability could be developed within 6 months.

So we know it can be done, if only the agencies responsible for enforcing the relevant laws have the will. The

legislation I am introducing requires the Secretary of the Treasury, in consultation with the Attorney General, to establish performance standards for the uniform testing of handgun ammunition. Such an objective standard will ensure that no rounds capable of penetrating police body armor, regardless of their composition, will ever be available to those who would use them against our law enforcement officers.

I wish to assure the Senate that this measure would in no way infringe upon the rights of legitimate hunters and sportsmen. It would not affect legitimate sporting ammunition used in rifles. It would only restrict the availability of armor-piercing rounds, for which no one can seriously claim there is a genuine sporting use. These cop-killer rounds have no legitimate uses, and they have no business being in the arsenals of criminals. They are designed for one purpose: to kill police officers.

The 1986 and 1993 cop-killer bullet laws I sponsored kept us one step ahead of the designers of new armor-piercing rounds. When the legislation I have introduced today is enacted—and I hope it will be early in the 105th Congress—it will put them out of the cop-killer bullet business permanently.

By Mr. LUGAR:

S. 2164. A bill to establish responsibility and accountability for information technology systems of the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE DEPARTMENT OF AGRICULTURE RESPONSIBILITY AND ACCOUNTABILITY ACT OF 1996

• Mr. LUGAR. Mr. President. I rise to introduce the Department of Agriculture Responsibility and Accountability Act of 1996. This bill establishes an Information Technology System Control Board to manage the U.S. Department of Agriculture's [USDA] technology planning and procurement processes. The Board will give the Department a strong centralized decision-making body to eliminate the duplication and inefficiencies associated with the independent agency-based approach that has plagued the Department for years, delivered poor service, and squandered hundreds of millions of taxpayer dollars.

The Office of Management and Budget estimates the Department of Agriculture will spend $1.4 billion on information technology and automated data processing equipment in fiscal year 1997. The Information Technology System Control Board will oversee all information technology spending at the Department. The Board, consisting of the Secretary and two appointees, will assume control of information technology planning and acquisition until the year 2002, guiding the creation of a technical architecture to take the Department into the 21st century. Finally, the Board will determine how best to accomplish the missions of the various agencies and the Department before purchasing information technology systems.

The General Accounting Office, the Department of Agriculture's Office of Inspector General, and independent contractor reviews since 1989 have identified ongoing problems with USDA's administration of information resource management programs, including the multiagency program called Info Share and computer and telecommunication purchases. Since the USDA Reorganization Act was enacted in 1994, USDA management has continued their historic trend of purchasing telecommunication and information systems that: fail to link information technology budgeting and purchases to strategic business needs; fail to integrate information management strategies with financial and programmatic information and reporting requirements; fail to define information technology requirements through business process reengineering; fail to achieve departmentwide efficiencies by standardizing administrative functions; and, fail to address the cultural changes necessary to migrate from a piecemeal approach to a standardized, collaborative delivery system in field service centers.

The Department continues to acquire hardware, software, and other equipment that does not match user needs, provides inefficient delivery of services to USDA customers, and creates unnecessary duplication. Many duplicated product and service acquisitions could have been avoided by departmentwide consolidation and sharing. Procurement activities do not allow the Farm Services Agency, Natural Resources Conservation Service and Rural Development to exchange information electronically in the agency headquarter and field offices. The Department lacks leadership to direct the changes necessary to establish a working field service center infrastructure.

In April 1993, USDA established the Info Share Program to reframe the business activities of individual agencies into a consolidated strategy to meet the goals outlined for one-stop-shopping field service centers. In August 1993, the General Services Administration delegated procurement authority for USDA to spend up to $2.6 billion on Info Share. Besides the General Accounting Office, the Office of Management and Budget, and the USDA Office of the Inspector General, the National Institute of Standards and Technology criticized USDA's approach to purchasing computer equipment, hardware, and software before defining the future mission objectives of its agencies in a May 1994 report. The report stated that Federal agencies should first determine how best to accomplish their mission and then acquire technology solutions to meet their needs. Info Share was to be the cure-all for USDA's management and acquisition control problems.

The USDA Office of Inspector General sharply criticized the Info Share Program in a May 1995 report. The inspector general reported that USDA agencies were proceeding with their own information technology projects for information sharing between agencies with an apparent lack of funding and acquisition controls. The Office of Management and Budget complained to the Office of Budget and Program Analysis [OBPA] about inaccurate acquisition cost reporting and the need for a formal approval process for information technology purchases.

Despite heavy pressures for Info Share to succeed, by December 1995 Info Share had failed. The failure was due to an evident lack of upper management leadership, inadequate planning, failure to obtain consensus on program objectives, and poor program management. USDA's leadership, despite commitments made by Secretary Glickman, again failed to focus on the necessary development of departmentwide computer and information standards and a comprehensive analysis of emerging business requirements. The Info Share Program has now been replaced by a decentralized agency-led initiative under the National Food and Agriculture Council. As a result, individual agencies are again independently deciding what is best for their individual needs, abandoning the departmentwide effort necessary to consolidate administrative and information technology systems.

According to an August 1994 GAO Report, "USDA Restructuring—Refocus Info Share Program on Business Processes Rather Than Technology", USDA is not performing key business process reengineering [BPR] steps necessary for a successful reorganization of the Department. BPR is a management technique used fundamentally to rethink and redesign business processes to achieve dramatic changes in overall performance. It is also used to change how employees think and work to improve customer satisfaction. The success of the field service center initiative depends on cross-training field office employees to operate as educated contacts for all USDA programs. The lack of training is making it difficult for field office employees who remain after downsizing efforts to provide quality service to their customers. USDA's focus on improving computer automation prior to concentrating on the skills of its work force has hamstrung program delivery.

During farm bill deliberations, it was determined that reforms were needed to rein in the uncontrolled and obscured use of CCC funds for information technology. Commodity Credit Corporation [CCC] borrowing authority

has been historically abused within the Department. Transfers and expenditures of CCC funds have too often been obscured from congressional oversight and at times have been of questionable legality. As a result, the FAIR Act established spending caps on the use of CCC funds for purchases or services for automated data processing or information technology, and for all reimbursable agreements—contracts—funded by the CCC. Finally, the CCC was required to report to Congress on a quarterly basis all expenditures of over $10,000 for these expenditures. This new level of transparency was designed to increase accountability by forcing USDA managers to fully examine information technology purchases and link purchase plans with work force needs.

Despite repeated calls for leadership, USDA does not have the necessary management to link the Department's ability to define its work force to its information technology purchases. The Department has yet to determine how to provide quality services with a reduced work force and changing mission requirements. In addition, USDA is still using its Info Share initiative, now guided by the National Food and Agriculture Committee, as a vehicle to acquire new information technology, rather than develop a method to improve the way USDA does business and prepare the Department for the challenges of the 21st century.

On May 31, 1996, House Agriculture Committee Chairman PAT ROBERTS and I wrote to the Secretary stating that the USDA should not make additional investments in information technology products that are exclusive to one agency unless USDA can show that the investments will provide technology that will be shared among agencies. We also shared our concern that funds were being spent without adequate consideration of USDA's future business requirements. The Department responded with a less than adequate catalog of ongoing initiatives designed for individual agency program use rather than a departmentwide information technology architecture.

Despite efforts by USDA to meet the goal of information sharing as mandated by the USDA Reorganization Act of 1994 and Info Share, the Farm Services Agency, Rural Development, and Natural Resources Conservation Service field offices remain unable to operate in a common computing environment. This has resulted in the delivery of poor services to its customers. If USDA is ever to successfully share information, the Department must prevent agencies from planning and building their own individual networks.

For example, last year the Farm Services Agency [FSA] spent $36 million in Commodity Credit Corporation [CCC] funds to purchase new minicomputers for FSA field offices during the debate of the Federal Agriculture Improvement and Reform Act of 1996. The FAIR Act resulted in a 7-year phaseout of farm subsidy programs, significantly reducing work force requirements and workload of the Farm Service Agency. Less than a year later, FSA is proposing another upgrade that does not meet the requirements necessary for information sharing with other field office agency computer systems. Why did FSA spend $36 million on a new system if the agency knew it would be outdated only 9 months later? USDA estimates the upgrade alternative will result in acquisition costs of $125.8 million for FSA alone. Estimates of costs to be incurred by the Natural Resources Conservation Service and Rural Development to acquire similar equipment have not been made. This ill-conceived approach will result in an investment of $11,604 per computer in FSA offices that may not have employees to run those computers after work force downsizing occurs. This is yet another example of poor planning and waste of taxpayer dollars resulting from a lack of direction.

Despite repeated reviews by the General Accounting Office and the USDA Office of the Inspector General, and considerable concern of Congress, the Director of the Office of Information Resource Management has not determined how to address the information sharing needs of the Department. Therefore, USDA risks wasting millions by building new networks that are redundant, do not address future business needs, and do not provide the information sharing capabilities necessary among agencies. The creation of the Information Technology System Control Board will put the Department back on track and save millions of taxpayer dollars.

My bill also makes necessary changes to the buyout authority granted to USDA in the 1997 Agriculture Appropriation Conference Report. The buyout authority gives the Department the authority to offer $25,000 bonuses to retirement-age employees, and those eligible for early retirement. This golden handshake approach to Department downsizing pays off employees who are already preparing to retire. In addition, it comes at the expense of conservation programs. The Senate Agriculture Committee recently learned that the Department may transfer an estimated $43 million from unobligated Conservation Reserve Program funds to pay for buyouts for 1,341 Farm Services Agency employees. The bill mandates that buyouts can only be paid from appropriations made available for salaries and expenses and prohibits the use of mandatory funds, including Commodity Credit Corporation funds, for buyout plans. In addition, the bill limits the Department's buyout authority to 1 year. These changes are important to monitor the Department's work force downsizing efforts by compelling USDA to properly plan for future work force reductions.

I cannot overstate my concern that the Department has failed to adequately assess the impact that the FAIR Act will have on the people who use the services of the Department and on the Department's work force requirements. Department management lacks strong central leadership in planning for information technology for the 21st century, continues to acquire equipment, hardware, software, and computers that do not match user needs, continues to provide inefficient delivery of services to USDA customers, and continues to allow unnecessary duplication.

Since I am introducing my bill at the end of this session, obviously it cannot become law before the 105th Congress convenes next year. However, I intend to pursue this important issue in the next Congress, and I will reintroduce this bill.

I ask my colleagues to support this important endeavor and I ask unanimous consent that the text of the summary and the bill be printed in the RECORD.

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

S. 2164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Department of Agriculture Responsibility and Accountability Act 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—INFORMATION TECHNOLOGY SYSTEM CONTROL BOARD

Sec. 101. Findings.
Sec. 102. Definitions.
Sec. 103. Information Technology System Control Board.
Sec. 104. Mission of the Board.
Sec. 105. Duties of the Board.
Sec. 106. Powers of the Board.
Sec. 107. Review by Office of Management and Budget.
Sec. 108. Technical amendment.
Sec. 109. Termination of authorities.

TITLE II—ADMINISTRATION OF DEPARTMENT OF AGRICULTURE

Sec. 201. Administration of Department of Agriculture.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

TITLE I—INFORMATION TECHNOLOGY SYSTEM CONTROL BOARD

SEC. 101. FINDINGS.

Congress finds that—

(1) the Office of Management and Budget estimates that the Department of Agriculture will spend $1,100,000,000 for fiscal year 1996 and $1,400,000,000 for fiscal year 1997 on information technology and automated data processing equipment;

(2) according to the Department of Agriculture, as of October 1993, the Department had 17 major information technology systems under development with an estimated life-cycle cost of $6,300,000,000;

(3) both the General Accounting Office and the Office of Management and Budget have categorized the information technology programs of the Department as high risk due to lack of management and financial controls;

(4) the General Accounting Office, the Office of the Inspector General of the Department, and independent contract studies have shown that the Department's information technology decisions have been made in piecemeal fashion, on an individual agency basis, resulting in a lack of coordination, duplication, and wasted financial and technological resources among the various offices and agencies of the Department and costing hundreds of millions of wasted dollars over the past decade;

(5) over the past 10 years, committees of Congress, the General Accounting Office, the Office of Management and Budget, and private consultants have repeatedly pointed to the lack of strong central leadership and accountability as the fundamental reasons for the Department's failure to make informed decisions on critical information technology investments;

(6) committees of Congress, the General Accounting Office, the Office of Management and Budget, the Office of the Inspector General of the Department, and private consultants have—

(A) strongly criticized the Department over the past 10 years for ignoring business process reengineering; and

(B) pointed to the Department's refusal to use an industry accepted methodology as key to its failure to develop a technology platform that services the entire Department;

(7) the Department's role in regulating agriculture in the United States was substantially reduced by the FAIR Act;

(8) the Department has failed to adequately assess the impact of the FAIR Act will have on the needs of its customers;

(9) the Department has continued information technology procurement absent future business need considerations and workforce requirements resulting from the FAIR Act;

(10) the Department continues to approach the technological changes brought about by the Act without studying the changes in the context of the business processes of the Department;

(11) because the Department has failed to implement the internal changes necessary to effectively address the deficiencies raised by committees of Congress, the General Accounting Office, the Office of Management and Budget, and the Office of the Inspector General of the Department over the past decade, it is necessary to establish a single entity within the Department with both the responsibility and authority to make decisions regarding information technology planning and procurement; and

(12) having an Information Technology System Control Board to control the Department's information technology planning and procurements will—

(A) provide the Department with strong and coordinated leadership and direction;

(B) ensure that funds will be spent by the Department on information technology only after the Department has completed the required planning and review of future business requirements; and

(C) force the Department to act as a single enterprise with respect to information technology, thus eliminating the duplication and inefficiency associated with an independent agency-based approach.

SEC. 102. DEFINITIONS.

In this title:

(1) BOARD.—The term "Board" means the Information Technology System Control Board established under section 103.

(2) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(3) FAIR ACT.—The term "FAIR Act" means the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127).

(4) INFORMATION TECHNOLOGY SYSTEM.—The term "information technology system" means all or part of each system of automated data processing, telecommunications, information resource management, or business process reengineering of an office or agency of the Department.

(5) OFFICE OR AGENCY OF THE DEPARTMENT.—The term "office or agency of the Department" means each current or future—

(A) national, regional, county, or local office or agency of the Department;

(B) county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5));

(C) State committee, State office, or field service center of the Farm Service Agency; and

(D) multiple offices and agencies of the Department that are currently, or will be, connected by an information technology system.

(6) TRANSFER OR OBLIGATION OF FUNDS.—The term "transfer or obligation of funds" means, as applicable—

(A) the transfer of funds (including appropriated funds, mandatory funds, and funds of the Commodity Credit Corporation) from 1 account to another account of an office or agency of the Department for the purpose of funding any activity of the Department regarding planning, providing services, or leasing or purchasing of personal property (including all hardware and software) or services for an information technology system of an office or agency of the Department;

(B) the obligation of funds (including appropriated funds, mandatory funds, and funds of the Commodity Credit Corporation) for the purpose of funding any activity of the Department regarding planning, providing services, or leasing or purchasing of personal property (including all hardware and software) or services for an information technology system of an office or agency of the Department; or

(C) the obligation of funds (including appropriated funds, mandatory funds, and funds of the Commodity Credit Corporation) for the purpose of funding any activity of the Department regarding planning, providing services, or leasing or purchasing of personal property (including all hardware and software) or services for an information technology system of an office or agency of the Department, to be obtained through a contract with any office or agency of the Federal Government, a State, the District of Columbia, or any person in the private sector.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 103. INFORMATION TECHNOLOGY SYSTEM CONTROL BOARD.

(a) ESTABLISHMENT.—An Information Technology System Control Board is established in the Department.

(b) COMPOSITION.—The Board shall consist of 3 members, of whom—

(1) 2 members shall be appointed from the private sector by the President by and with the advice and consent of the Senate; and

(2) 1 member shall be the Secretary.

(c) QUALIFICATIONS OF BOARD MEMBERS.—Of the members of the Board appointed by the President (other than the Secretary)—

(1) 1 member shall have—

(A) extensive private sector work-related experience in the field of total quality management; and

(B) at least 5 years of demonstrated work related experience in a full range of activities with large organizations involving information strategic planning, strategic quality planning, and strategic process management, including business process reengineering and business process improvement project-related experience; and

(2) 1 member shall have at least 15 years experience and industry-recognized credentials in the field of planning and managing the specification, design, and implementation of information technology, telecommunications, and information management systems in the private sector.

(d) COMPENSATION.—

(1) IN GENERAL.—A member of the Board appointed by the President (other than the Secretary) shall—

(A) be a limited term appointee (as defined in section 3132(a) of title 5, United States Code); and

(B) be paid an annual rate of compensation that does not exceed the annual rate in effect for positions at level V of the Executive Schedule.

(2) ADMINISTRATION.—A member of the Board (other than the Secretary) shall not be governed by—

(A) the provisions of title 5, United States Code, relating to appointments in the competitive service; or

(B) the provisions of chapter 51 and subchapter III of chapter 53 of title 5, or any other provision of law, relating to number or classification of General Schedule rates.

(3) CONFORMING AMENDMENT.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Limited term appointees of the Information Technology System Control Board, Department of Agriculture (2).".

(e) CLERICAL AND SUPPORT PERSONNEL.—Notwithstanding any other provision of law:

(1) IN GENERAL.—The Board is authorized to obtain and employ such clerical or other support personnel, including detailees from an office or agency of the Department, as are necessary to enable the Board to carry out this title. The Secretary shall approve the transfer of each detailee selected by the Board.

(2) MANAGEMENT AND SUPERVISORY DUTIES.—The Board shall have general management and supervisory authority over all clerical and support personnel and detailees selected by the Board.

(3) SPECIFIC DUTIES.—In the case of clerical and support personnel and detailees selected by the Board, the supervisory and management authority of the Board under paragraph (2) shall include the exclusive authority (unless expressly delegated by a unanimous vote of the Board) to—

(A) establish and control workloads, quality of work, and work content;

(B) approve bonuses, step advancements, and promotions; and

(C) discipline employees for unsatisfactory performance or conduct.

(f) BOARD VOTING PROCEDURE.—Except as otherwise provided in this title—

(1) a decision or action of the Board shall require at least a ⅔-majority vote in favor of the decision or action; and

(2) if at least a ⅔-majority vote on a decision or action is obtained, the Secretary shall carry out the decision or action of the Board.

SEC. 104. MISSION OF THE BOARD.

(a) IN GENERAL.—The Board shall—

(1) develop and implement for the future a blueprint for a single platform information technology system of the Department that is coordinated between the offices or agencies of the Department, eliminate duplication, and are cost effective; and

(2) provide the strong central leadership, planning, and accountability that is needed in light of the substantial changes created by the FAIR Act and reorganization and downsizing initiatives already commenced within the Department.

(b) SPECIFIC GOALS OF THE BOARD.—The Board shall ensure that—

(1) information technology systems of the Department are designed to coordinate the functions of the offices or agencies of the Department on a departmental basis in contrast to the current practice of individual agencies designing and procuring information technology systems that service only a single agency;

(2) information technology systems are designed for field service centers—

(A) to best facilitate the exchange of information between field service centers and other offices or agencies of the Department;

(B) that integrate the changed missions of the Department in light of the FAIR Act and reorganization and downsizing initiatives of the Department; and

(C) that are cost effective; and

(3) a technical architecture is established that serves the entire Department.

(c) BUSINESS PLAN.—

(1) APPROVAL; REPORT.—Not later than 90 days after the date the last member of the Board appointed by the President (other than the Secretary) is confirmed by the Senate, the Board shall approve and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a business plan to carry out this section through March 31, 2002.

(2) FAILURE TO REPORT.—If a business plan is not approved and reported in accordance with paragraph (1), notwithstanding any other provision of law, the transfer or obligation of funds available to the Department for the purpose of funding any activity of the Department regarding planning, providing services, or leasing or purchasing of personal property (including all hardware and software) or services for an information technology system of an office or agency of the Department shall be prohibited until the business plan is reported to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 105. DUTIES OF THE BOARD.

The Board shall—

(1) review, evaluate, and approve (or, at the option of the Board, develop) each plan or design for all or part of each information technology system of each office or agency of the Department;

(2) exercise exclusive authority to approve each transfer or obligation of funds to be used to acquire all or part of each information technology system (including all hardware and software) for each office or agency of the Department;

(3) ensure that major information technology systems of the Department, where appropriate, result in improvements to the operations of the Department that are commensurate with the level of investment;

(4) ensure that the information technology system of each office or agency of the Department maximizes the effectiveness and efficiency of mission delivery and is focused first on specific improvements to core business processes (the strategic process management architecture) of the Department;

(5) ensure that the information technology system of each office or agency of the Department maximizes quality per dollar expended, and maximizes efficiency and coordination of information technology systems between offices and agencies of the Department;

(6) ensure that planning for, leases, and purchases of the information technology system of each office or agency of the Department most efficiently satisfy the needs of the office or agency in terms of the demographics, program, and the number of employees affected by the system; and

(7) ensure that funding used for planning or purchasing of the information technology system of each office or agency of the Department is used in the most effective manner.

SEC. 106. POWERS OF THE BOARD.

(a) IN GENERAL.—Subject to subsection (c) and notwithstanding any other provision of law, the Board shall have the exclusive authority (except as expressly delegated by a unanimous vote of the Board) to—

(1) review, evaluate, and approve each plan or design for each activity or regulation of the Department regarding planning, providing services, leasing, or purchasing of personal property (including all hardware and software) or services for the information technology system of each office or agency of the Department;

(2) develop (or, on a unanimous vote of the Board, direct employees of an agency or office of the Department to develop) a plan or design for an activity of the Department regarding planning, providing services, leasing, or purchasing of personal property (including hardware and software) or services for the information technology system of an office or agency of the Department; and

(3) approve each transfer or obligation of funds to be used for the purpose of funding any activity of the Department regarding planning, providing services, or leasing or purchasing of personal property (including all hardware and software) or services for the information technology system of each office or agency of the Department.

(b) REPORT TO BOARD.—An employee directed by the Board to develop a plan or design under paragraph (2) of subsection (a) shall report to the Board on actions taken to carry out the paragraph.

(c) BOARD NOT SUBJECT TO CONTROL OF SECRETARY.—The Board (including a decision or action of the Board approved by at least a ⅔-majority vote) shall not be subject to the control, direction, or supervision of the Secretary.

(d) EXCLUSIVE AUTHORITY.—Notwithstanding any other provision of law, the Board shall have the exclusive authority to exercise all powers described in subsection (a) during the period—

(1) beginning on the earlier of—

(A) the date the last member of the Board appointed by the President (other than the Secretary) is confirmed by the Senate; or

(B) March 31, 1997; and

(2) ending on March 31, 2002.

SEC. 107. REVIEW BY OFFICE OF MANAGEMENT AND BUDGET.

The Director of the Office of Management and Budget may review any regulation or transfer or obligation of funds involving an information technology system of the Department.

SEC. 108. TECHNICAL AMENDMENT.

The second sentence of section 13 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714k) is amended by striking "section 5 or 11" and inserting "section 4, 5, or 11".

SEC. 109. TERMINATION OF AUTHORITIES.

The Board and all other authorities provided by this title (other than section 108) shall terminate on March 31, 2002.

TITLE II—ADMINISTRATION OF DEPARTMENT OF AGRICULTURE

SEC. 201. ADMINISTRATION OF DEPARTMENT OF AGRICULTURE.

Section 735 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1997 (Public Law 104-180; 110 Stat. 1604), is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (F), by striking "or" at the end;

(B) in subparagraph (G), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(H) any employee who, on separation and application, would be eligible for an immediate annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code (or another retirement system for an employee of the agency), other than an annuity subject to a reduction under section 8339(h) or 8415(f) of title 5, United States Code (or corresponding provisions of another retirement system for an employee of the agency).";

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking subparagraph (B) and inserting the following:

"(B) shall be paid from appropriations made available for salaries and expenses of the agency;";

(ii) by redesignating subparagraphs (C) through (E) as subparagraphs (D) through (F), respectively;

(iii) by inserting after subparagraph (B) the following:

"(C) may not originate from funds of a mandatory account (including funds of the Commodity Credit Corporation) that are transferred to the salaries and expenses account of the agency;"; and

(iv) in subparagraph (D)(ii) (as so redesignated), by striking "in fiscal year 1997," and all that follows through "2000"; and

(B) in paragraph (3), by striking "September 30, 2000" and inserting "March 31, 1997"; and

(3) by striking subsection (g) and inserting the following:

"(g) PERIOD.—The authority to offer separation incentive payments under this section shall apply during the period beginning October 1, 1996, and ending March 31, 1997.".

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

Except as provided in section 106(d)(1), this Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

SUMMARY OF THE DEPARTMENT OF AGRICULTURE RESPONSIBILITY AND ACCOUNTABILITY ACT OF 1996

TITLE I-INFORMATION TECHNOLOGY SYSTEM CONTROL BOARD

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

SEC. 101. FINDINGS.—Studies by several governmental and private organizations have repeatedly found that the Department of Agriculture has made planning decisions for, and procurement of, information technology in a piecemeal fashion, and on an individual agency basis (instead of a Department-wide

basis), resulting in duplication, a lack of coordination, and wasted financial and technological resources. The Department has failed to adequately assess the impact that the 1996 Farm Bill will have on the people who use the services of the Department and on the Department's workforce requirements. Because of these and other longstanding deficiencies, it is necessary to establish a single entity within the Department that has the exclusive responsibility and authority to make decisions regarding planning for, and procurement of, information technology. This entity will—provide the Department with strong and coordinated leadership; ensure that funds will be spent on information technology only after a thorough review of future business requirements; and ensure that planning and procurement for information technology is performed on a departmental basis, instead of the Current independent agency-based approach.

SEC. 102. DEFINITIONS.

SEC. 103. INFORMATION TECHNOLOGY SYSTEM CONTROL BOARD.

An Information Technology System Control Board (Board) is established within the Department that consists of three members-the Secretary of Agriculture and two persons with extensive experience from the private sector who have qualifications such as quality management, strategic planning, and business process reengineering. The two members of the Board other than the Secretary shall be compensated at a rate according to level V of the Executive Schedule.

Sec. 104. MISSION OF THE BOARD.—The Board is required to—

Develop and implement for the future a blueprint for a single platform for information technology; ensure that planning and procurement for information technology is performed on a departmental basis, instead of an independent agency-based approach;

Ensure that information technology for field service centers is coordinated, cost effective, and designed in light of the changed requirements and reduced work force realities created by the 1996 Farm Bill;

Establish a technical architecture for information technology for the Department; and

Submit to Congress a business plan on how the Board intends to carry out its mission though 2002.

SEC. 105 & 106. DUTIES AND POWERS OF THE BOARD.

The Board is authorized and required to—

Review, evaluate, and approve every plan or design for an activity or regulation of the Department regarding planning, providing services, or procuring information technology for offices and agencies of the Department;

Develop a plan or design for activities of the Department regarding planning, providing services, or procuring information technology for offices and agencies of the Department; and

Approve every transfer or obligation of funds for procurement of information technology for offices and agencies of the Department.

The Board will not be subject to the control, direction, or supervision of the Secretary. The Board will obtain the exclusive authority to exercise these powers when the last member of the Board is confirmed by the Senate, or March 31, 1997, whichever is earlier, and will terminate on March 31, 2002.

SEC. 107. REVIEW BY OFFICE OF MANAGEMENT AND BUDGET.

The Office of Management and Budget may review any regulation or transfer or obligation of funds approved by the Board.

SEC. 108. TECHNICAL AMENDMENT.

A technical change is made to a reporting requirement regarding funding for automated data processing or information resource management.

SEC. 109. TERMINATION OF AUTHORITIES.

All authorities of this subtitle (except the technical amendment in section 108) will terminate on March 31, 2002.

TITLE II—ADMINISTRATION OF DEPARTMENT OF AGRICULTURE

The personnel buyout authority in the FY 1997 Agriculture Appropriations Act is amended—

By prohibiting persons who are eligible for retirement from also obtaining a buyout payment;

By requiring that only funds from an agency's salaries and expense accounts be used to pay for buyout payments;

By limiting this buyout authority to only FY 1997.

TITLE III—EFFECTIVE DATE.

This bill will become effective when it is signed into law by the President.•

By Mr. SPECTER:

S. 2165. A bill to require that the President to impose economic sanctions against countries that fail to eliminate corrupt business practices, and for other purposes; to the Committee on Foreign Relations.

UNFAIR TRADE PRACTICES ACT

Mr. SPECTER. Mr. President, today I am introducing the Unfair Trade Practices Act to level the playing field for U.S. companies competing with foreign firms overseas by imposing sanctions against foreign persons and concerns engaging in corrupt trade practices to the disadvantage of a U.S. company and against countries that refuse to enforce or adopt their own foreign corrupt practices laws similar to our Foreign Corrupt Practices Act.

I am introducing this bill at the end of this session rather than waiting to introduce it in the 105th Congress in order to provide people an opportunity to review this legislation over the intervening months. Earlier introduction of the bill was prevented by the press of Senate Intelligence Committee business.

The Select Committee on Intelligence, which I chair, had a particularly heavy agenda this year, including, among many other items, the annual Intelligence Authorization Act providing for the first real reform of the U.S. intelligence community since 1947, criminalizing economic espionage, and directing a thorough study of how the U.S. Government is organized to combat the proliferation of weapons of mass destruction. In addition, the committee has undertaken significant inquiries into CIA activities in Guatemala, the actions of U.S. officials regarding the flow of arms from Iran to Bosnia, and the bombing of United States facilities in Saudi Arabia.

Mr. President, this bill directs the President to report to Congress regarding foreign persons and concerns that engage in corrupt practices and countries that do not have or do not enforce laws similar to our Foreign Corrupt Practices Act. Countries that the President determines are not engaged in a good faith effort to enact or enforce such laws will be sanctioned. Sanctions include a 50-percent reduction in foreign aid and USG opposition to the extension of any loan or financial or technical assistance by international financial institutions.

The bill also provides for sanctions against foreign persons and concerns engaging in corrupt trade practices to the disadvantage of a U.S. company. If the country with primary jurisdiction over the offenders fail to take action against them within 90 days, the President must, to fullest extent consistent with international obligations, ban all U.S. Government contracts with the offenders as well as all licenses or other authority allowing the offenders to conduct business within the United States.

In testimony earlier this year before the Select Committee on Intelligence, Director of Central Intelligence John Deutch said the problems of economic espionage and unfair trade practices were among the most serious economic issues facing the country today. Earlier this year, Senator KOHL and I introduced legislation to criminalize economic espionage, S. 1557, subsequently included in S. 1718, and S. 1557. The bill I am introducing today attempts to address the second issue, unfair trade practices by foreign concerns.

The importance of this effort to level the playing field by encouraging other countries to criminalize bribery of foreign officials throughout the world cannot be overstated. Earlier this year, then-U.S. Trade Representative Mickey Kantor noted that "from April 1994 to May 1995, the U.S. Government learned of almost 100 cases in which foreign bribes undercut U.S. firms' ability to win contracts valued at $45 billion."

A recent poll of 3,000 Asian executives conducted by the "Far Eastern Economic Review" found that more than a third of the business leaders in four major countries preferred to bribe a customer rather than lose a big sale. Another index is published annually by an institution called Transparency International, created by a group of multinational corporations including General Electric and the Boeing Corp. This index, which was a compilation of polls of business men and women around the world, revealed that corruption is not limited to any specific culture or business area but exists worldwide. Nor is it limited to less developed countries. In 1994, a year described in "The Financial Times—Dec. 30, 1994, at 4—as "The Year of Corruption," complaints of corruption surfaced in some of the wealthier countries, including Britain, Canada, France, and Japan.

Despite the evidence that corruption is still widespread, there are indications that the international community may finally be susceptible to increased pressure to crack down on these unfair trade practices. There is a growing recognition that bribery exacts a cost on the foreign country whose officials are corrupted. Studies show corrupt procurement practices deter foreign investment while as much as doubling the price that emerging countries pay for goods and services.

We may finally be approaching the point when focused U.S. pressure can actually make a difference, just as U.S.-led efforts to combat money laundering, including U.S. sanctions, extraterritorial enforcement of U.S. laws, and multilateral efforts, finally led countries to recognize that the stigma of being a dirty-money haven outweighed the benefits of attracting illicit funds.

Change will not occur without significant U.S. pressure, however. When then-Trade Representative Kantor returned this past March from discussions with the Organization on Economic Cooperation and Development [OECD], he expressed his frustration at the lack of progress in trying to get our European allies to adopt laws to stop unfair trade practices and suggested U.S. sanctions may be required to provide the necessary incentive. While most countries have enacted laws to punish the bribing of their officials by their nationals and foreigners, no other major nation has laws banning their nationals from bribing foreign officials. In fact, in a number of countries—including Germany and France—corruption and bribery are so accepted that individuals are permitted to deduct the cost of bribes from their taxes.

Sustained U.S. efforts finally led in April of this year to an agreement by the members of the OECD that these tax laws should be rewritten so that bribes paid to foreign officials, often listed as commissions or fees, would no longer be tax deductible. However, this agreement is not binding and there is no deadline by which members are to have adopted the changes. Moreover, this is still a long way from criminalizing bribery of foreign officials.

There is much more that needs to be done. In addition to pressing the OECD members to adopt foreign corrupt practices laws, the USG should move promptly to support the treaty negotiated this past April in the Organization of American States requiring each signatory to make bribery of foreign officials a crime and an extraditable offense. We should press for similar commitments in other fora, such as the G-7 meetings and the World Trade Organization.

In the meantime, the U.S. should take steps to ensure that U.S. firms are not penalized by the failure of other countries to enact laws prohibiting foreign bribery. Foreign firms that bribe foreign officials to gain an unfair advantage over U.S. competitors are, in effect, robbing those U.S. competitors of their right to compete fairly for international contracts. Such "theft" has adverse effects within the United States in terms of lost income and, often, jobs. If countries with jurisdiction over these trade thieves will not act to stop them, the U.S. should.

By Mr. HATFIELD:

S. 2166. A bill to increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by enabling State, local, and tribal governments and private, nonprofit organizations to use amounts available under certain Federal assistance programs in accordance with approved flexibility plans; to the Committee on Governmental Affairs.

THE LOCAL EMPOWERMENT AND FLEXIBILITY PILOT ACT OF 1996

• Mr. HATFIELD. Mr. President, the appropriations process of the past few weeks has been very complex. Rolling several spending bills into one—to the tune of $600 billion—is not the most appropriate method to appropriate. However, as the fiscal year expires tonight, avoiding a Government shutdown is our national priority. As a result of our need to be hasty, many Members have lost, or been asked to withhold, their legislative priorities. This is the compromising nature absolutely necessary to reach agreement in time for the President to sign this bill today.

One withheld legislative goal that I would like to expound upon is my own—the Local Empowerment and Flexibility Act of 1996. I introduced this bill on the first day of the 104th Congress. Congress has held three hearings, one in the Senate and two in the House, and "Local-Flex," as I call it, was reported favorably out of both the House Government Reform and Oversight Committee and the Senate Governmental Affairs Committee months ago.

An agreement had been reached to include a six-State Local-Flex pilot in the Treasury-Postal appropriations bill. The assistance of the Governmental Affairs Committee as well as Senators SHELBY, KERREY, KENNEDY, and SIMON was greatly appreciated. However, before the agreement could be incorporated into the Treasury-Postal bill, various other amendments forced leadership to pull the bill off the floor. I then included the agreed upon pilot in the Senate CR with the hope and expectation that it would be included in the final omnibus bill. Unfortunately, the necessary haste of the government-wide spending bill precluded securing final agreement to incorporate the Local-Flex pilot. I have no doubt that a few additional moments would have made this possible.

Local-Flex provides communities flexibility in the administration of Federal funding. States and localities receive numerous Federal grants, each with their categorical purposes and specific requirements. As grantees use more than one grant together, requirements conflict and common sense government can be lost. Under Local-Flex, in exchange for flexibility in the form of waivers of statutory and regulatory requirements, grantees agree to focus on and measure results rather than procedural compliance. With over 635 Federal grants available to be mixed and matched at the local level, there should be little doubt that flexibility is required.

Mr. President, the past year, the Governmental Affairs Committee, House of Representatives, administration, interest groups and other interested Members have come to the table to practically discuss how the bill would work and what improvements should be made. Serious concerns have been addressed and great headway was made to the point that the Local-Flexibility Pilot has the broad bipartisan support of the Governmental Affairs Committee.

Unfortunately, I am disappointed to report that even with the bipartisan support of the committee of jurisdiction, the support of the National League of Cities, the National Association of Counties, and yet other interest groups have targeted Local-Flex, warning their members of the danger that results whenever communities are empowered to make decisions which affect their citizens.

As former Governor of Oregon, I vividly recall the lack of trust Washington has for the State and local level. That is why for several years I have been pushing forward what I call the "flexibility factor." The Education Flexibility Act or "Ed-Flex," was my first piece and become law in 1993. It provides much needed flexibility in a select number of education programs. Ed-Flex has been enormously successful, and what started as a six-State pilot is being expanded with New Mexico becoming the most recent Ed-Flex State.

The second piece to my flexibility factor is "Work-Flex." Originally a part of the Careers Act of Senator KASSEBAUM, and now a part of the omnibus appropriations bill, Work-Flex reduces Government bureaucracy specifically in the area of job training programs, of which there are over 100, by measuring and rewarding outcomes and not bureaucratic procedure.

The last and most significant piece to the flexibility factor has been Local-Flex—legislation which will not be passed this year, but I would like to, in a moment, introduce as a free-standing bill the Local Empowerment and Flexibility Pilot Act of 1996.

The key organization that resisted the concept of local-flexibility, was the

National Education Association. No matter what changes were made to Local-Flex, an offshoot of the Education Flexibility Act, it has been made clear to me that the NEA would never support Local-Flex. It is not my usual custom to focus on any one group or individual on the Senate floor, but I cannot be silent as my commitment to education is questioned as flagrantly as it has been by the NEA. My support for education funding is absolute, but my support for flexible funding is just as strong.

More than once I have been endorsed by the Oregon Education Association, and on the issue of education vouchers, the NEA and I have stood on the same ground. To witness the NEA's uncompromising view on this matter has been at best disheartening. While I single out the NEA, many groups trying to protect their piece of the Federal pie have been vocal in their opposition.

Madam President, I would just like to close by explaining why I believe the flexibility factor is so important. As I mentioned a moment ago, we have been attempting—and when I say we I mean Members on both sides of the aisle and both sides of the Mall—to balance the budget on an 18-percent baseline of nondefense discretionary programs. By 2002, it is projected this baseline will decrease by 12 percent. In barely 5 years, it is estimated that nondefense discretionary spending will be only 13 percent of the Federal budget. These numbers should encourage each of us to stop and think. In short, we are running out of nondefense discretionary dollars.

On the first day of this Congress I introduced the Local Empowerment and Flexibility Act because if we are going to try and get our fiscal house in order using 18 percent of our budget, we may as well ensure that Federal dollars are doing more than being thrown at problems—we ought to be providing flexibility and measuring results.

It is appropriate then, that on this last day, the Local Empowerment and Flexibility Pilot Act—which has been built on the foundation of my original bill—be introduced today and made available to the 105th Congress for debate.

Mr. President, I would like to especially thank the Governmental Affairs Committee for their work with Local-Flex, especially Chairman STEVENS, Ranking Member GLENN and Senator LEVIN. I would also like to thank Senator KENNEDY for his assistance with this legislation. Their expertise has been invaluable. The Government Reform and Oversight Committee on the House side has also shown excellent leadership under Chairman CLINGER and the companion bill's sponsor Congressman SHAYS. And finally, I am delighted to know of Congressman STENY HOYER'S interest in moving the flexibility factor forward in the 105th Congress. I introduce this bill today to serve as a starting point for next year's discussion.●

By Mr. KERRY:

S. 2168. A bill to amend title 49, United States Code, to provide protection for airline employees who provide certain air safety information, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE AVIATION SAFETY PROTECTION ACT

Mr. KERRY. Mr. President, in an effort to increase overall safety of the airline industry, I am introducing the Aviation Safety Protection Act of 1996, which would establish whistle blower protection for aviation workers.

The worker protections contained in the Occupational Safety and Health Act [OSHA] are of great importance to American workers. A number of members of this body have worked hard to maintain those protections. OSHA properly protects both private and Federal Government employees who report health and safety violations from reprisal by their employers. However, because of a loophole, aviation employees are not covered by these protections. Flight attendants and other airline employees are in the best position to recognize breaches in safety regulations and can be the critical link in ensuring safer air travel. Currently, those employees face the possibility of harassment, discipline, and even termination if they work for unscrupulous airlines and report violations.

Aviation employees perform an important public service when they choose to report safety concerns. No employee should be put in the position of having to choose between his or her job and reporting violations that threaten the safety of passengers and crew. For that reason, we need a strong whistle blower law to protect aviation employees from retaliation by their employers when reporting incidents to Federal authorities. Americans who travel on commercial airlines deserve the safeguards that exist when flight attendants and other airline employees can step forward to help Federal authorities enforce safety laws.

This bill would close the loophole in OSHA law and provide the necessary protections for aviation employees who provide safety violation information to Federal authorities or testify or assist in disclosure of safety violations. The act provides a Department of Labor complaint procedure for employees who experience employer reprisal for reporting such violations, and assures that there are strong enforcement and judicial review provisions for fair implementation of the protections. The act also protects airlines from frivolous complaints by establishing a fine which will be imposed on an employee who files a complaint if the Department of Labor determines that there is no merit to the complaint.

I want to acknowledge the leadership of Representative CLYBURN who has introduced the bill in the House of Representatives as H.R. 3187. I am pleased to introduce the companion legislation in the Senate.

This bill will provide important protections to aviation workers and the general public. I urge my colleagues to join me in supporting it.

By Mr. PELL:

S. 2169. A bill to promote the survival of significant cultural resources that have been identified as endangered and that represent important economic, social, and educational assets of the United States and the world, to permit United States professionals to participate in the planning and implementation of projects worldwide to protect the resources, and to educate the public concerning the importance of cultural heritage to the fabric of life in the United States and throughout the world, and for other purposes; to the Committee on Energy and Natural Resources.

THE ENDANGERED CULTURAL HERITAGE ACT OF 1996

Mr. PELL. Mr. President. I rise to express my concern for the many historic and artistic sites around the world that are in grave danger through a growing range of threats from natural catastrophes and environmental deterioration to destructive acts of man. These magnificent sites are resources of great importance, not only for their spiritual and educational meaning, but also as valuable economic, social, and learning blocks for the global community.

Through personal travel and my observations as a member of the Foreign Relations Committee and Honorary Chairman of the American Committee for Tyre, I have come to understand the value of preserving and protecting cultural heritage, especially in times of political upheaval or social change. In Cambodia, Vietnam and Croatia, we have seen that the use and abuse of culturally significant sites plays a large role in international relations.

The actual number of endangered sites is being well-documented by the World Monuments Fund, a United States nonprofit organization devoted to the conservation of cultural heritage on a worldwide scale that maintains an international listing of endangered sites. Within this country, the National Trust for Historic Preservation and the National Park Service work with the World Monuments Fund to track sites in need of conservation and rehabilitation.

I believe that the United States is in a unique position to lead an effort among independent nations to protect the future of our cultural legacy worldwide. A timely response is critical to prevent further losses. This can be achieved through sustained funding to stabilize and strengthen the ability of

local institutions to protect their cultural resources on a consistent and long-term basis. Conservation work must increase. Professionals need to be trained in cultural resource management, and the public needs to be instilled with a concern for the survival of our significant cultural heritage.

I hope that the 105th Congress will take action to establish an endangered cultural heritage fund and am today introducing legislation to serve as a discussion piece to move us in that direction. As a nation composed of the people of many cultures, it is fitting to support the care of great historic and artistic sites which define national character and pay tribute to human accomplishment of universal significance.

By Mrs. KASSEBAUM:

S. 2170. A bill to establish spending limits for entitlement programs and other mandatory spending programs, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly.

THE SAVE OUR SAVINGS ACT OF 1996

• Mrs. KASSEBAUM. Mr. President, one good result of the strenuous budget debate of the past 2 years has been a bipartisan embrace of the need for reform in the long-sacrosanct realm of entitlement spending. The exchange of offers and counteroffers that characterized the budget process produced a new consensus that entitlement spending must be controlled. Most of us now realize that without controls, entitlement programs will continue to grow at a pace that threatens our fiscal security, jeopardizing any effort to balance the budget and squeezing funding away from important discretionary programs.

As we come to the end of this Congress, the fruits of that consensus are in peril. Republicans and Democrats, Congress and the White House—almost all of us have agreed that, at the very minimum, we can save $232 billion over 6 years from entitlement programs. We have not been able to agree on the policies to produce those savings, but we should not release ourselves from our obligation to do so. The legislation I am introducing today, the Save Our Savings Act of 1996, would ensure that we fulfill that obligation.

Sometimes when we talk about entitlements, we use terms that support the view that they are beyond our control. We often define entitlements as programs not controlled by the annual appropriations process, programs that must distribute payments to all eligible, regardless of the cost. On its face, that definition is correct. But at a more basic level, it betrays a sense of helplessness, an aversion to action, and a passive acceptance of their growing might.

When I was sworn in as a Senator 18 years ago, discretionary spending represented nearly 50 percent of the Federal budget. Now we spend little more than a third on these programs. We have seen in the past 2 years how hard it is to squeeze savings from discretionary programs. If we do nothing about entitlements, spending constraints will become tighter still.

Part of the explanation is that we now must set aside about one-sixth of the budget just to pay interest on the debt. At the same time, spending on entitlement programs has escalated rapidly in recent years, and the forecast is for even more rapid expansion in the future. In fact, if entitlements are allowed to grow unimpeded, they, combined with interest on the debt, will consume all revenues by 2012.

This bill takes affirmative steps to lock in significant entitlement savings that, without action, will vanish. The legislation would cap entitlements from fiscal years 1997 to 2002 at the CBO-defined levels of the President's budget or, where applicable, the levels in the recently passed welfare reform legislation. You can consider those levels of savings the lowest that most of us have agreed to.

Multiple caps would be enforced, including individual caps on the 11 largest entitlement programs, an all other cap, and an aggregate cap. Sequestration would be triggered only on programs that exceeded their caps, and the caps themselves would be adjusted for economic and demographic factors. The caps could be adjusted by recorded vote.

Some might argue that the very fact that both parties now advocate significant savings from entitlement programs has demonstrated our capacity to control Government spending—that we do not need our feet held to the fire—but experience is eloquent. If we let the evolution of the last 2 years' budget proposals fade into memory, the courage and resolve that should be invested in making difficult policy decisions will be spent instead on producing yet another set of budget blueprints. Congress does not need to start all over again; we need to finish what we have started.

I realize that nothing more can be done on this matter in this Congress. I also realize that I will not be here in the next Congress to carry on this effort. However, I believe it is important to voice both my concern and a specific proposal to give weight to that concern for those who must take up this battle in the years ahead.•

By Mr. CONRAD (for himself and Mr. KERREY):

S. 2171. A bill to provide reimbursement under the Medicare Program for telehealth services, and for other purposes; to the Committee on Finance.

THE COMPREHENSIVE TELEHEALTH ACT OF 1996

• Mr. CONRAD. Mr. President, today, I am introducing legislation to help improve health care delivery in rural and underserved communities throughout America through the use of telecommunications and telehealth technology.

Telehealth encompasses a wide variety of technologies, ranging from the telephone to high-tech equipment that enables a surgeon to perform surgery from thousands of miles away. It includes interactive video equipment, fax machines and computers along with satellites and fiber optics. These technologies can be used to diagnose patients, deliver care, transfer health data, read x rays, provide consultation, and educate health professionals. Telehealth also includes the electronic storage and transmission of personally identifiable health information, such as medical records, test results, and insurance claims.

The promise of telehealth is becoming increasingly apparent. Throughout the country, providers are experimenting with a variety of telehealth approaches in an effort to improve access to quality medical and other health-related services. Those programs are demonstrating that telecommunications technology can alleviate the constraints of time and distance, as well as the cost and inconvenience of transporting patients to medical providers. Many approaches show promising results in reducing health care costs and bringing adequate care to all Americans. Technological advances and the development of a national information infrastructure for the first time give telehealth the potential to overcome barriers to health care services for rural Americans and give them the access that most Americans take for granted. But it is clear that our Nation must do more to integrate telehealth into our overall health care delivery infrastructure.

Because I believe telehealth holds incredible promise for rural America, I formed the ad hoc steering committee on telemedicine and health care informatics to explore telehealth and related issues in 1994. The purpose of the steering committee, which includes telehealth experts from Government, private industry, and the health care professions, is to evaluate federal policies on telehealth and how to use telecommunications technology more effectively to increase access to health care throughout America.

Throughout the last few years, as the steering committee held meetings and policy forums, it became increasingly apparent that there is enormous energy and financial effort being devoted to telehealth today, both by Government and private industry.

Because so many rural and underserved communities lack the ability to attract and support a wide variety of health care professionals and services, it is important to find a way to bring the most important medical services

into those communities. Telehealth provides an important part of the answer. It helps bring services to remote areas in a quick, cost-effective manner, and can enable patients to avoid traveling long distances in order to receive health care treatment.

Telehealth is already making a difference in my State. The University of North Dakota has a fiber optic two-way audio and video interactive network that has been used to train students in areas like social work and medical technology. Recently, I had the opportunity to spend some time with two of the premier telehealth systems in the State of North Dakota. I was amazed at the capabilities of these systems. They currently supply speciality care to rural North Dakota clinics, manage chronic disease, lower administrative costs, and reduce the isolation felt by rural and frontier practitioners.

Because telehealth is in many respects an emerging health care application, it is particularly important to constructively capitalize on efforts like these. My proposal attempts to facilitate this in a number of ways.

The first element of my proposal builds on current demonstration projects to require the Health Care Financing Administration to put in place a reimbursement system for telehealth activities under Medicare. Medicare reimbursement policy is an essential component of helping integrate telehealth into the health care infrastructure, and must be explored. It is particularly important in rural areas, where many hospitals do as much as 80% of their business with Medicare patients.

The second element of this proposal asks the Secretary of Health and Human Services to submit a report to the Congress on the status of efforts to ease licensing burdens on practioners who cross State lines in the course of supplying telehealth services. Currently, consultation by almost any licensed health professional in this situation requires that the practitioner be licensed in both States.

In talking with telehealth providers in my State, and with experts on the Ad Hoc Committee, I have been told repeatedly that this is one of the most significant barriers to developing broad integrated telehealth systems. More importantly, they tell me States have actively been using licensure to close their borders to innovative telehealth practice. In the past two years, nine States have taken legislative action to ensure that out-of-state practitioners must be fully licensed in their State in order to provide telehealth services, even if they are fully licensed in the State they are practicing from. During a recent discussion with a telehealth practitioner from my home State of North Dakota, I was told about a group of telehealth specialists who, among their small group practice, were licensed in over 30 different States. That means they pay thirty different fees, are responsible for 30 different continuing education requirements, and are overseen by 30 different regulatory bodies. This is a costly and burdensome procedure for many practitioners, but the burden falls particularly heavily on rural practitioners, who face long travel times to acquire continuing education, and who frequently run on lower profit margins than urban practitioners.

While I am not prepared at this time to propose that the Federal Government get involved with professional licensure, I have asked the Secretary to study the issue and report to Congress yearly on the status of efforts by states and other interested organizations to address this issue. As part of this report, I have asked to the Secretary to make recommendations to Congress, if appropriate, about possible Federal action to lower the licensure barrier.

A third element of my proposal involves coordination of the Federal telehealth effort. Vice President GORE has been making outstanding contributions in the area of the information super highway. The Department of Health and Human Services, in large part at the urging of the Vice President, has created an informal interagency task force that is examining our Federal agency telehealth efforts. My bill attempts to use that task force to inventory Federal activity on telehealth and related technology, determine what applications have been found successful, and recommend an overall Federal policy approach to telehealth.

Many departments and agencies of the Federal Government are engaged in telehealth activity, including the Veterans Administration, Department of Defense, Department of Agriculture, Office of Rural Health Policy, and many others. The more these agencies work together to coordinate the Federal effort and consolidate Federal resources, the more effective the Federal Government will be at contributing to telehealth in a positive way. Such coordination will also help protect the American taxpayer from unnecessary duplication of effort.

The fourth part of my proposal helps communities build home-grown telehealth networks. It attempts to both build a telehealth infrastructure and foster rural economic development. Clearly, the scarcity of resources in many rural communities requires that the coordination and use of those resources be maximized. My bill encourages cooperation by various local entities in an effort to help build sustainable telehealth programs in rural communities. It plants seed money to encourage health care providers to join with other segments of the community to jointly use telecommunications resources. Using a unique loan forgiveness program, it rewards telehealth systems that supply appropriate, high-quality care while reducing overall health care costs.

Most importantly, it does not create a system where various technological approaches are imposed upon communities. Rather it enables potential grantees to determine user-friendly approaches that work best for them. This home-grown approach to developing user-friendly telehealth systems, as well as the preference for coordinating resources within communities, will help ensure the long-term viability of such programs after the grant expires.

Mr. President, my proposal is a sound first step in our national efforts to integrate telecommunications technology into the rapidly evolving health care delivery system. Over the past several weeks, I have attempted to reach out to different groups and incorporate their ideas into this proposal. I hope the result is a bill that will command broad support. But, as with any complex issue, I understand that some may prefer different approaches. By introducing this legislation in the waning moments of the 104th Congress, I hope to send a message to all interested parties that now is the time to come forward with creative solutions to these important issues, because I am certain that they will be revisited again in the 105th Congress.

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. 2171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Telehealth Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES

Sec. 101. Medicare reimbursement for telehealth services.

TITLE II—TELEHEALTH LICENSURE

Sec. 201. Initial report to Congress.
Sec. 202. Annual report to Congress.

TITLE III—PERIODIC REPORTS TO CONGRESS FROM THE JOINT WORKING GROUP ON TELEHEALTH

Sec. 301. Joint working group on telehealth.

TITLE IV—DEVELOPMENT OF TELEHEALTH NETWORKS

Sec. 401. Development of telehealth networks.
Sec. 402. Administration.
Sec. 403. Guidelines.
Sec. 404. Authorization of appropriations.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Hospitals, clinics, and individual health care providers are critically important to

the continuing health of rural populations and the economic stability of rural communities.

(2) Rural communities are underserved by specialty care providers.

(3) Telecommunications technology has made it possible to provide a wide range of health care services, education, and administrative services between practitioners, patients, and administrators across State lines.

(4) The delivery of health services by licensed health practitioners is a privilege and the licensure of health care practitioners and the ability to discipline such practitioners is necessary for the protection of citizens and for the public interest, health, welfare, and safety.

(5) The licensing of health care practitioners to provide telehealth services has a significant impact on interstate commerce and any unnecessary barriers to the provision of telehealth services across State lines should be eliminated.

(6) Rapid advances in the field of telehealth give the Congress a need for current information and updates on recent developments in telehealth research, policy, technology, and the use of this technology to supply telehealth services to rural and underserved areas.

(7) Telehealth networks can provide hospitals, clinics, practitioners, and patients in rural and underserved communities with access to specialty care, continuing education, and can act to reduce the isolation from other professionals that these practitioners sometimes experience.

(8) In order for telehealth systems to continue to benefit rural and underserved communities, medicare must reimburse the provision of health care services from remote locations via telecommunications.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To mandate that the Health Care Financing Administration reimburse the provision of clinical health services via telecommunications.

(2) To determine if States are making progress in facilitating the provision of telehealth services across State lines.

(3) To create a coordinating entity for Federal telehealth research, policy, and program initiatives that reports to Congress annually.

(4) To encourage the development of rural telehealth networks that supply appropriate, cost-effective care, and which contribute to the economic health and development of rural communities.

(5) To encourage research into the clinical efficacy and cost-effectiveness of telehealth diagnosis, treatment, or education on individuals, practitioners, and health care networks.

TITLE I—MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES

SEC. 101. MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES.

(a) IN GENERAL.—Not later than January 1, 1998, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act in accordance with the methodology described in subsection (b) for professional consultation via telecommunication systems with an individual or entity furnishing a service for which payment may be made under such part to a medicare beneficiary residing in a rural area (as defined in section 1886(d)(2)(D) of such Act) or an underserved area, notwithstanding that the individual health care practitioner providing the professional consultation is not at the same location as the individual furnishing the service to the medicare beneficiary.

(b) METHODOLOGY FOR DETERMINING AMOUNT OF PAYMENTS.—Taking into account the findings of the report required under section 192 of the Health Insurance Portability and Accountability Act of 1996, including those findings relating to the clinical efficacy and cost-effectiveness of telehealth applications, the Secretary shall establish a methodology for determining the amount of payments made under subsection (a), including the cost of the consultation service, a reasonable overhead adjustment, and a malpractice risk adjustment.

(c) ADDITIONAL ANALYSIS INCLUDED IN REPORT.—Section 192 of the Health Insurance Portability and Accountability Act of 1996 is amended—

(1) by inserting "and telehealth" after "telemedicine" each place it appears, and

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) include an analysis of—

"(A) how telemedicine and telehealth systems are expanding access to health care services,

"(B) the clinical efficacy and cost-effectiveness of telemedicine and telehealth applications,

"(C) the quality of telemedicine and telehealth services delivered, and

"(D) the reasonable cost of telecommunications charges incurred in practicing telemedicine and telehealth in rural, frontier, and underserved areas;".

TITLE II—TELEHEALTH LICENSURE

SEC. 201. INITIAL REPORT TO CONGRESS.

Not later than July 1, 1997, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning—

(1) the number, percentage and types of practitioners licensed to provide telehealth services across State lines, including the number and types of practitioners licensed to provide such services in more than 3 States;

(2) the status of any reciprocal, mutual recognition, fast-track, or other licensure agreements between or among various States;

(3) the status of any efforts to develop uniform national sets of standards for the licensure of practitioners to provide telehealth services across State lines;

(4) a projection of future utilization of telehealth consultations across State lines;

(5) State efforts to increase or reduce licensure as a burden to interstate telehealth practice; and

(6) any State licensure requirements that appear to constitute unnecessary barriers to the provision of telehealth services across State lines.

SEC. 202. ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than July 1, 1998, and each July 1 thereafter, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress, an annual report on relevant developments concerning the matters referred to in paragraphs (1) through (6) of section 201.

(b) RECOMMENDATIONS.—If, with respect to a report submitted under subsection (a), the Secretary of Health and Human Services determines that States are not making progress in facilitating the provision of telehealth services across State lines by eliminating unnecessary requirements, adopting reciprocal licensing arrangements for telehealth services, implementing uniform requirements for telehealth licensure, or other means, the Secretary shall include in the report recommendations concerning the scope and nature of Federal actions required to reduce licensure as a barrier to the interstate provision of telehealth services.

TITLE III—PERIODIC REPORTS TO CONGRESS FROM THE JOINT WORKING GROUP ON TELEHEALTH

SEC. 301. JOINT WORKING GROUP ON TELEHEALTH.

(a) IN GENERAL.—

(1) REDESIGNATION.—The Joint Working Group on Telemedicine, established by the Secretary of Health and Human Services, shall hereafter be known as the "Joint Working Group on Telehealth" with the chairperson being designated by the Director of the Office of Rural Health Policy.

(2) MISSION.—The mission of the Joint Working Group on Telehealth is—

(A) to identify, monitor, and coordinate Federal telehealth projects, data sets, and programs,

(B) to analyze—

(i) how telehealth systems are expanding access to health care services, education, and information,

(ii) the clinical, educational, or administrative efficacy and cost-effectiveness of telehealth applications, and

(iii) the quality of the services delivered, and

(C) to make further recommendations for coordinating Federal and State efforts to increase access to health services, education, and information in rural and underserved areas.

(3) PERIODIC REPORTS.—The Joint Working Group on Telehealth shall report not later than January 1 of each year (beginning in 1998) to the Congress on the status of the Group's mission and the state of the telehealth field generally.

(b) REPORT SPECIFICS.—The annual report required under subsection (a)(3) shall provide—

(1) an analysis of—

(A) how telehealth systems are expanding access to health care services,

(B) the clinical efficacy and cost-effectiveness of telehealth applications,

(C) the quality of telehealth services delivered,

(D) the Federal activity regarding telehealth, and

(E) the progress of the Working Group's efforts to coordinate Federal telehealth programs; and

(2) recommendations for a coordinated Federal strategy to increase health care access through telehealth.

(c) TERMINATION.—The Joint Working Group on Telehealth shall terminate immediately after the annual report filed not later than January 1, 2002.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the operation of the Joint Working Group on Telehealth on and after the date of the enactment of this Act.

TITLE IV—DEVELOPMENT OF TELEHEALTH NETWORKS

SEC. 401. DEVELOPMENT OF TELEHEALTH NETWORKS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this title as the "Secretary"), acting

through the Director of the Office of Rural Health Policy (of the Health Resources and Services Administration), shall provide financial assistance (as described in subsection (b)(1)) to recipients (as described in subsection (c)(1)) for the purpose of expanding access to health care services for individuals in rural and frontier areas through the use of telehealth.

(b) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Financial assistance shall consist of grants or cost of money loans, or both.

(2) FORM.—The Secretary shall determine the portion of the financial assistance provided to a recipient that consists of grants and the portion that consists of cost of money loans so as to result in the maximum feasible repayment to the Federal Government of the financial assistance, based on the ability to repay of the recipient and full utilization of funds made available to carry out this title.

(3) LOAN FORGIVENESS PROGRAM.—

(A) ESTABLISHMENT.—With respect to cost of money loans provided under this section, the Secretary shall establish a loan forgiveness program under which recipients of such loans may apply to have all or a portion of such loans forgiven.

(B) REQUIREMENTS.—A recipient described in subparagraph (A) that desires to have a loan forgiven under the program established under such paragraph shall—

(i) within 180 days of the end of the loan cycle, submit an application to the Secretary requesting forgiveness of the loan involved;

(ii) demonstrate that the recipient has a financial need for such forgiveness;

(iii) demonstrate that the recipient has met the quality and cost-appropriateness criteria developed under subparagraph (C); and

(iv) provide any other information determined appropriate by the Secretary.

(C) CRITERIA.—As part of the program established under subparagraph (A), the Secretary shall establish criteria for determining the cost-effectiveness and quality of programs operated with loans provided under this section.

(c) RECIPIENTS.—

(1) APPLICATION.—To be eligible to receive a grant or loan under this section an entity described in paragraph (2) shall, in consultation with the State office of rural health or other appropriate State entity, prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(A) a description of the anticipated need for the grant or loan;

(B) a description of the activities which the entity intends to carry out using amounts provided under the grant or loan;

(C) a plan for continuing the project after Federal support under this section is ended;

(D) a description of the manner in which the activities funded under the grant or loan will meet health care needs of underserved rural populations within the State;

(D) a description of how the local community or region to be served by the network or proposed network will be involved in the development and ongoing operations of the network;

(E) the source and amount of non-Federal funds the entity would pledge for the project; and

(F) a showing of the long-term viability of the project and evidence of provider commitment to the network.

The application should demonstrate the manner in which the project will promote the integration of telehealth in the community so as to avoid redundancy of technology and achieve economies of scale.

(2) ELIGIBLE ENTITIES.—An entity described in this paragraph is a hospital or other health care provider in a health care network of community-based providers that includes at least—

(A) two of the following:

(i) community or migrant health centers;

(ii) local health departments;

(iii) nonprofit hospitals;

(iv) private practice health professionals, including rural health clinics;

(v) other publicly funded health or social services agencies;

(vi) skilled nursing facilities;

(vii) county mental health and other publicly funded mental health facilities; and

(viii) home health providers; and

(B) one of the following, which must demonstrate use of the network for purposes of education and economic development (as required by the Secretary):

(i) public schools;

(ii) public library;

(iii) universities or colleges;

(iv) local government entity; or

(v) local nonhealth-related business entity.

An eligible entity may include for-profit entities so long as the network grantee is a nonprofit entity.

(d) PRIORITY.—The Secretary shall establish procedures to prioritize financial assistance under this title considering whether or not the applicant—

(1) is a health care provider in a rural health care network or a provider that proposes to form such a network, and the majority of the providers in such a network are located in a medically underserved, health professional shortage areas, or mental health professional shortage areas;

(2) can demonstrate broad geographic coverage in the rural areas of the State, or States in which the applicant is located;

(3) proposes to use Federal funds to develop plans for, or to establish, telehealth systems that will link rural hospitals and rural health care providers to other hospitals, health care providers and patients;

(4) will use the amounts provided for a range of health care applications and to promote greater efficiency in the use of health care resources;

(5) can demonstrate the long term viability of projects through use of local matching funds (cash or in-kind); and

(6) can demonstrate financial, institutional, and community support for the long-term viability of the network.

(e) MAXIMUM AMOUNT OF ASSISTANCE TO INDIVIDUAL RECIPIENTS.—The Secretary may establish the maximum amount of financial assistance to be made available to an individual recipient for each fiscal year under this title, and establish the term of the loan or grant, by publishing notice of the maximum amount in the Federal Register.

(f) USE OF AMOUNTS.—

(1) IN GENERAL.—Financial assistance provided under this title shall be used—

(A) with respect to cost of money loans, to encourage the initial development of rural telehealth networks, expand existing networks, or link existing networks together; and

(B) with respect to grants, as described in paragraph (2).

(2) GRANTS AND LOANS.—The recipient of a grant or loan under this title may use financial assistance received under such grant or loan for the acquisition of telehealth equipment and modifications or improvements of telecommunications facilities including—

(A) the development and acquisition through lease or purchase of computer hardware and software, audio and video equipment, computer network equipment, interactive equipment, data terminal equipment, and other facilities and equipment that would further the purposes of this section;

(B) the provision of technical assistance and instruction for the development and use of such programming equipment or facilities;

(C) the development and acquisition of instructional programming;

(D) demonstration projects for teaching or training medical students, residents, and other health professions students in rural training sites about the application of telehealth;

(E) transmission costs, maintenance of equipment, and compensation of specialists and referring practitioners;

(F) development of projects to use telehealth to facilitate collaboration between health care providers;

(G) electronic archival of patient records;

(H) collection of usage statistics; or

(I) such other uses that are consistent with achieving the purposes of this section as approved by the Secretary.

(3) EXPENDITURES IN RURAL AREAS.—In awarding a grant or cost of money loan under this section, the Secretary shall ensure that not less than 50 percent of the grant or loan award is expended in a rural area or to provide services to residents of rural areas.

(g) PROHIBITED USES.—Financial assistance received under this section may not be used for any of the following:

(1) To build or acquire real property.

(2) Expenditures to purchase or lease equipment to the extent the expenditures would exceed more than 40 percent of the total grant funds.

(3) To purchase or install transmission equipment (such as laying cable or telephone lines, microwave towers, satellite dishes, amplifiers, and digital switching equipment).

(4) For construction, except that such funds may be expended for minor renovations relating to the installation of equipment.

(5) Expenditures for indirect costs (as determined by the Secretary) to the extent the expenditures would exceed more than 20 percent of the total grant funds.

(h) MATCHING REQUIREMENT FOR GRANTS.—The Secretary may not make a grant to an entity State under this section unless that entity agrees that, with respect to the costs to be incurred by the entity in carrying out the program for which the grant was awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions (in cash or in kind) in an amount equal to not less than 50 percent of the Federal funds provided under the grant.

SEC. 402. ADMINISTRATION.

(a) NONDUPLICATION.—The Secretary shall ensure that facilities constructed using financial assistance provided under this title do not duplicate adequate established telehealth networks.

(b) LOAN MATURITY.—The maturities of cost of money loans shall be determined by the Secretary, based on the useful life of the facility being financed, except that the loan shall not be for a period of more than 10 years.

(c) LOAN SECURITY AND FEASIBILITY.—The Secretary shall make a cost of money loan only if the Secretary determines that the security for the loan is reasonably adequate and that the loan will be repaid within the period of the loan.

(d) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate, to the extent practicable, with other Federal and State agencies with similar grant or loan programs to pool resources for funding meritorious proposals in rural areas.

(e) INFORMATIONAL EFFORTS.—The Secretary shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this title.

SEC. 403. GUIDELINES.

Not later than 180 days after the date of enactment of this Act, the Secretary shall issue guidelines to carry out this title.

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, $25,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2004.

THE COMPREHENSIVE TELEHEALTH ACT OF 1996

BILL SUMMARY

Section 1. Short Title; Table of Contents.

Sec. 2. Findings and Purposes.

Subtitle A—Medicare Reimbursement For Telehealth Services.

Sec. 101. Medicare Reimbursement For Telehealth Service.

Mandates that HCFA reimburse for telehealth services provided to rural and underserved areas by January of 1998. Reimbursement would be given to any Medicare-eligible provider. This provision builds on the results of the HCFA telemedicine reimbursement demonstration program, and adds additional reporting requirements to the reimbursement methodology report that HCFA must forward to Congress by March of 1997.

Subtitle B—Telehealth Licensure.

Sec. 201. Initial Report to Congress.

Asks the Secretary of Health and Human Services to submit an initial report to the Congress on the status of efforts to ease licensing burdens on practioners who cross state lines in the course of supplying telehealth services.

Sec. 202. Annual Report to Congress.

Asks the Secretary to report yearly on developments concerning the matters in Sec. 1201. If the Secretary feels the states or other relevant entities are not making progress on removing licensure barriers to multistate telehealth practice, the Secretary may make recommendations about possible federal action necessary to reduce licensure burdens.

Subtitle C—Periodic Reports to Congress From the Joint Working Group on Telehealth.

Sec. 301. Joint Working Group on Telehealth.

The Joint Working Group on Telemedicine (JWGT) is currently operating out of the HHS/HRSA Office of Rural Health Policy, at the request of the Secretary and the Vice-President. The group consists of representatives from over twenty government agencies and divisions that operate or oversee telehealth related projects, including the VHA, DOD, IHS, NASA, USDA, and others. The JWGT coordinates federal programs and telehealth initiatives, and will complete a report on its efforts in January of 1997.

Under this proposal, the name of the group will change to the "Joint Working Group on Telehealth", and the Office of Rural Health Policy will have the authority to select the Chair. It requires yearly updates (through 2002) to Congress on the report on Telehealth due March 1, 1997. The group sunsets in 2002.

Subtitle D—Development of Telehealth Networks.

Sec. 401. Development of Telehealth Networks.

Grants and loans are awarded through the Office of Rural Health Policy (ORHP) to rural hospitals, clinics, schools, libraries, business organizations, and universities to develop local multi-use telehealth systems. Systems are given an incentive to design effective programs; all or part of a loan can be forgiven if the program meets certain cost-effectiveness and quality criteria. Grantees must put up not less than a 50 percent match of the federal funds (cash or in-kind).

Sec. 402. Administration.

Sec. 403. Guidelines.

Sec. 404. Authorization of Appropriations.

Up to $25 million per year through 2004.•

By Mr. MURKOWSKI:

S. 2172. A bill to provide for the appointment of a Special Master to meet with interested parties in Alaska and make recommendations to the Governor of Alaska, The Alaska State Legislature, The Secretary of Agriculture, The Secretary of the Interior, and the United States Congress on how to return management of fish and game resources to the State of Alaska and provide for subsistence uses by Alaskans, and for other purposes; to the Committee on Energy and Natural Resources.

THE ALASKA SUBSISTENCE HUNTING AND FISHING ACT OF 1996

Mr. MURKOWSKI. Mr. President, I rise for the purpose of introducing legislation regarding subsistence hunting and fishing in Alaska.

I am under no false hope that this legislation will move through the Senate this year but I want it to appear in the RECORD for purposes of discussion.

The issue of subsistence hunting and fishing in Alaska has caused a great divisiveness in my State that has led to the State of Alaska becoming the only State in the union which no longer retains control of its fish and game resources on public lands.

This legislation calls for the appointment of a special master to come up with non-binding recommendations to the Secretaries of Agriculture and the Interior, the Governor of the State of Alaska and to the Congress.

The recommendations will be on how to return management of fish and game resources to the State, and how best to provide for the continuation of a subsistence lifestyle for Alaska's rural residents.

I hope to have significant discussions with the people of Alaska on this issue between now and the start of the 105th Congress and intend to introduce legislation again upon our return in January.

Mr. President, I intend to place a longer statement in the RECORD next week on this issue.

By Mr. DORGAN:

S. 2173. A bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes; to the Committee on Finance.

THE FAMILY BUSINESS ESTATE TAX RELIEF ACT OF 1996

• Mr. DORGAN. Mr. President, I introduce the Family Business Estate Tax Relief Act of 1996, which would help preserve our Nation's most important economic assets. I am referring, of course, to our farms, ranches and other family-owned small businesses which are the major creators of new wealth and jobs in this country.

Farms, ranches and other closely held family businesses that operate in this country face a number of obstacles to succeeding, ranging from price gouging by tough international competitors to excessive U.S. regulations. That is why it is not surprising to find, for example, that we have lost some 377,000 family farms since 1980, a decline of some 23,500 family farms every year.

Since 1980, we have lost some 9,000 of our family farms in North Dakota. At the same time, we see that only a small fraction of other family-run businesses survive beyond the second generation.

When family farms are sold or family-run businesses on Main Street are boarded up, those families lose their very livelihood. Moreover, our country loses the jobs and services those families provide to our communities.

I have been approached on a number of occasions at town meetings by North Dakotans who say it is virtually impossible for them to pass along their farm or business—which has been the family's major asset for decades—to their children because of the exorbitant estate taxes they would pay. They think it is unfair, and I agree.

Unfortunately, our estate tax laws force many family members who inherit a modestly sized farm, ranch or other family business to sell it, or a large part of it, out of the family in order to pay off estate taxes. This is especially onerous when the inheriting family members have already been participating in the business for years and depend upon it to earn a living.

I think that we must take immediate steps to breathe new economic life and opportunities into our family businesses and the communities in which they operate. It seems to me that a good first step is correcting our estate tax laws so they do not unfairly penalize those working families who are now prevented from passing along a small farm or business to their kids or grandkids because they would have to pay exorbitant estate taxes.

There are a few provisions included in our estate tax laws that are intended to help a family's effort to keep the family business running long after the death of its original owner. But, for the most part, these provisions are either too modest or too narrowly drawn to do much good.

Now I also understand that there are some complicated estate tax planning

techniques available for those wealthy enough to hire sophisticated and costly tax advisors. Clearly some estate planning devices may reduce the estate tax burden imposed on some family businesses upon the death of a principal owner. But for those less affluent families inheriting a family business—where such estate planning tools were unavailable for whatever reason—the estate taxes will ultimately force them to amass a pile of debt, or to sell off all or a large part of a family business, just to pay off their estate taxes. I think that this is wrong, and it runs counter to the kinds of policies that we ought to be pursuing in support of our family-owned businesses.

That is why I am introducing the Family Business Estate Tax Relief Act to rectify this matter, and I urge you consider joining me in this endeavor.

The Family Business Estate Tax Relief Act would provide two significant measures of estate tax relief to those families hoping to pass along their businesses to the next generation.

First, my bill allows a decedent's estate to exclude up to the first $900,000 of value of the family business from estate taxes so long as the heirs continue to materially participate in the business for many years after the death of the owner. Together, this proposal, when coupled with the existing $600,000 benefit from unified estate and gift tax credit, will eliminate estate tax liability on qualifying family business assets valued up to $1.5 million. In addition, the full benefit of this new $900,000 exclusion is available to couples trying to pass along the family business without the complicated tax planning tailored to one spouse or the other that is sometimes used today.

Second, my bill would allow the executor of a qualifying estate who chooses to pay estate taxes in installments to benefit from a special 4 percent rate on the estate taxes attributable to a family business worth between $1.5 and $2.5 million. In other words, my bill would also lighten the estate tax burden on the next $1 million of estate assets.

My proposals expand upon the well-tested approaches found in Sections 2032A and 6601(j) of the Tax Code.

For example, we currently provide a "special-use" calculation for valuing real estate used in a farm or other trade or business for estate tax purposes, where a qualifying business is passed along to another family member after the death of the owner. To benefit from the "special-use" formula under Section 2032A, the inheriting family member must continue to actively participate in the business operation. If the heir ceases to participate in the business, he or she may face a substantial recapture of the estate taxes which would have been paid at the time of the original owner's death.

In enacting this provision, Congress embraced the goal of keeping farms and other closely held business in the family after the death of the owner. However, in the case of family farms, special-use valuation primarily helps those farms adjacent to urban areas, where the value of the land for non-farm uses is often much higher. But Section 2032A does not help many farms located in truly rural areas of the country where farming is the land's best use. This provision also provides little help for families transferring other non-farm small businesses under similar circumstances. My legislation would correct these glaring shortfalls in current law.

In addition, my bill would increase the benefit of the existing preferential interest rates under Section 6601(j) that apply to farms and other closely held businesses. The benefits of the current provision have been significantly reduced by inflation over the past several decades, and my bill simply increases the amount of estate taxes that qualify for a special 4 percent interest rate if paid to the IRS in installment payments over time.

Moreover, my bill includes several safeguards to ensure that its tax benefits are truly targeted at the preservation of most family businesses.

Finally, I plan to offset any estimated revenue losses from this bill by offering another legislative package to close a number of outdated or unnecessary tax loopholes for large multinational corporations doing business in the United States. As a result, passing my estate tax relief proposals will not increase the Federal deficit. But passing the Family Business Estate Tax Relief Act will help to preserve the economic backbone of this country.

I urge my colleagues to join me in supporting this much-needed legislation.●

By Mr. CRAIG:

S. 2174. A bill to amend the Immigration and Nationality Act with respect to the admission of temporary H-2A workers; to the Committee on the Judiciary.

THE H-2A TEMPORARY AGRICULTURAL WORKERS

● Mr. CRAIG. Mr. President, I introduce a bill that would make needed reforms to the so-called H-2A Program, the program intended by Congress in the Immigration and Nationality Act to allow for a reliable supply of legal, temporary, immigrant workers in the agricultural sector, under terms that also provide reasonable worker protections, when there is a shortage of domestic labor in this sector.

Let me start by once again thanking my good friend, AL SIMPSON, the senior Senator from Wyoming, who agreed to including in the Illegal Immigration Reform conference report some compromise language regarding the Sense of the Congress on the H-2A Program and requiring the General Accounting Office to review the effectiveness of the program by the end of the year. AL SIMPSON is a true friend, a statesman, and a dedicated public servant. The Senate will miss him and I will miss our working together on a regular basis.

The language included in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is essentially the same as language agreed to in the conference report on fiscal year 1997 Agriculture Appropriations. With these provisions, the Congress now has gone on record twice on the importance of having a program that helps ensure an adequate work force for agricultural producers.

This is an issue that of the utmost importance to this country's farmers and ranchers, especially in light of the impact that immigration reform will have on the supply of agricultural labor. There is very real concern among Idaho farmers and throughout the country that these reforms will reduce the availability of agricultural workers.

Farmers need access to an adequate supply of workers and want to have certainty that they are hiring a legal work force. In 1995, the total agricultural work force was about 2.5 million people. That equals 6.7 percent of our labor force, which is directly involved in production agriculture and food processing.

Hired labor is one of the most important and costly inputs in farming. U.S. farmers spent more than $15 billion on hired labor expenses in 1992 $1 of every $8 of farm production expenses. For the labor-intensive fruit, vegetable and horticultural sector, labor accounts for 35 to 45 percent of production costs.

The competitiveness of U.S. agriculture, especially in the fruit, vegetable and horticultural specialty sectors, depends on the continued availability of hired labor at a reasonable cost. U.S. farmers, including producers of labor-intensive perishable commodities, compete directly with producers in other countries for market share in both U.S. and foreign commodity markets.

Wages of U.S. farmworkers will not be forced up by eliminating alien labor, because growers' production costs are capped by world market commodity prices. Instead, a reduction in the work force available to agriculture will force U.S. producers to reduce production to the level that can be sustained by a smaller work force.

Over time, wages for these farm workers have actually risen faster than non-farm worker wages. Between 1986–1994, there was a 34.6 percent increase in average hourly earnings for farm workers, while non-farm workers only saw a 27.1 percent increase.

Even with this increase in on-farm wages, this country has historically been unable to provide a sufficient

number of domestic workers to complete the difficult manual labor required in the production of many agricultural commodities. In Idaho, this is especially true for producers of fruit, sugar beets, onions and other specialty crops.

The difficulty in obtaining sufficient domestic workers is primarily due to the fact that domestic workers prefer the security of full-time employment in year round positions. As a result the available domestic work force tends to prefer the long term positions, leaving the seasonal jobs unfilled. In addition, many of the seasonal agricultural jobs are located in areas where it is necessary for workers to migrate into the area and live temporarily to do the work. Experience has shown that foreign workers are more likely to migrate than domestic workers. As a result of domestic short supply, farmers and ranchers have had to rely upon the assistance of foreign workers.

The only current mechanism available to admit foreign workers for agricultural employment is the H-2A program. The H-2A program is intended to serve as a safety valve for times when domestic labor is unavailable. Unfortunately, the H-2A program isn't working.

Despite efforts to streamline the temporary worker program in 1986, it now functions so poorly that few in agriculture use it without risking an inadequate work force, burdensome regulations and potential litigation expense. In fact, usage of the program has actually decreased from 25,000 workers in 1986 to only 17,000 in 1995.

The bill I am introducing would provide some much-needed reforms to the H-2A program. I urge my colleagues to consider the following reasonable modifications of the H-2A program.

First, the bill would reduce the advance filing deadline from 60 to 40 days before workers are needed. In many agricultural operations, 60 days is too far in advance to be able to predict labor needs with the precision required in H-2A applications. Furthermore, virtually all referrals of U.S. workers who actually report for work are made close to the date of need. The advance application period serves little purpose except to provide time for litigation.

Second, in lieu of the present certification letter, the Department of Labor [DOL] would issue the employer a domestic recruitment report indicating that the employer's job offer meets the statutory criteria and lists the number of U.S. workers referred. The employer would then file a petition with INS for admission of aliens, including a copy of DOL's domestic recruitment report and any countervailing evidence concerning the adequacy of the job offer and/or the availability of U.S. workers. The Attorney General would make the admission decision. The purpose is to restore the role of the Labor Department to that of giving advice to the Attorney General on laboravailability, and return decision making to the Attorney General.

Third, the Department of Labor would be required to provide the employer with a domestic recruitment report not later than 20 days before the date of need. The report either states sufficient domestic workers are not available or gives the names and Social Security Numbers of the able, willing and qualified workers who have been referred to the employer. The Department of Labor now denies certification not only on the basis of workers actually referred to the employer, but also on the basis of reports or suppositions that unspecified numbers of workers may become available. The proposed change would assure that only workers actually identified as available would be the basis for denying foreign workers.

Fourth, the Immigration and Naturalization Service [INS] would provide expedited processing of employers' petitions, and, if approved, notify the visa issuing consulate or port of entry within 15 calendar days. This would ensure timely admission decisions.

Fifth, INS would also provide expedited procedures for amending petitions to increase the number of workers admitted on 5 days before the date of need. This is to reduce the paperwork and increase the timeliness of obtaining needed workers very close to or after the work has started.

Sixth, DOL would continue to recruit domestic workers and make referrals to employers until 5 days before the date of need. This method is needed to allow the employer at a date certain to complete his hiring, and to operate without having the operation disrupted by having to displace existing workers with new workers.

Seventh, the bill would enumerate the specific obligations of employers in occupations in which H-2A workers are employed. The proposed definition would define jobs that meet the following criteria as not adversely affecting U.S. workers:

1. The employer offers a competitive wage for the position.

2. The employer would provide approved housing, or a reasonable housing allowance, to workers whose permanent place of residence is beyond normal commuting distance.

3. The employer continues to provide current transportation reimbursement requirements.

4. A guarantee of employment is provided for at least three-quarters of the anticipated hours of work during the actual period of employment.

5. The employer would provide workers' compensation or equivalent coverage.

6. Employer must comply with all applicable federal, state and local labor laws with respect to both U.S. and alien workers.

This combination of employment requirements would eliminate the discretion of Department of Labor to specify terms and conditions of employment on a case-by-case basis. In addition, the scope for litigation would be reduced since employers (and the courts) would know with particularity the required terms and conditions of employment.

Eighth, the bill would provide that workers must exhaust administrative remedies before engaging their employers in litigation.

Ninth, certainty would be given to employers who comply with the terms of an approved job order. If at a later date the Department of Labor requires changes, the employer would be required to comply with the law only prospectively. This very important provision removes the possibility of retroactive liability if an approved order is changed.

With the Illegal Immigration Reform bill on its way to becoming law, action on these H-2A reforms would be necessary early next year to avoid jeopardizing the labor supply for American agriculture.

Therefore, it is fully my intention to reintroduce this bill at the start of the 105th Congress. I am introducing it at this time, at the end of the 104th Congress, so that those in Congress and around the country who are interested in this issue can get a head start on discussing these issues and examining these vitally-needed reforms.

Again, I urge my colleagues to examine this bill, hopefully with an eye toward supporting these reforms when they are reintroduced in the next Congress.

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. 2174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSIDERATIONS IN THE APPROVAL OF H-2A PETITIONS.

Section 218(a) (8 U.S.C. 1188(a)) of the Immigration and Nationality Act is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) In considering an employer's petition for admission of H-2A aliens, the Attorney General shall consider the certification decision of the Secretary of Labor and shall consider any countervailing evidence submitted by the employer with respect to the nonavailability of United States workers and the employer's compliance with the requirements of this section, and may consult with the Secretary of Agriculture.".

SEC. 2. CONDITION FOR DENIAL OF LABOR CERTIFICATION.

Section 218(b)(4) (8 U.S.C. 1188(b)(4)) of the Immigration and Nationality Act is amended to read as follows:

"(4) DETERMINATION BY THE SECRETARY.—The Secretary determines that the employer

has not filed a job offer for the position to be filled by the alien with the appropriate local office of the State employment security agency having jurisdiction over the area of intended employment, or with the State office of such an agency if the alien will be employed in an area within the jurisdiction of more than one local office of such an agency, which meets the criteria of paragraph (5).

"(5) REQUIRED TERMS AND CONDITIONS OF EMPLOYMENT.—The Secretary determines that the employer's job offer does not meet one or more of the following criteria:

"(A) REQUIRED RATE OF PAY.—The employer has offered to pay H-2A aliens and all other workers in the occupation in the area of intended employment an adverse effect wage rate of not less than the median rate of pay for similarly employed workers in the area of intended employment.

"(B) PROVISION OF HOUSING.—

"(i) IN GENERAL.—The employer has offered to provide housing to H-2A aliens and those workers not reasonably able to return to their residence within the same day, without charge to the worker. The employer may, at the employer's option, provide housing meeting applicable Federal standards for temporary labor camps, or provide rental or public accommodation type housing which meets applicable local or state standards for such housing.

"(ii) HOUSING ALLOWANCE AS ALTERNATIVE.—In lieu of offering the housing required in clause (i), the employer may provide a reasonable housing allowance to workers not reasonably able to return to their place of residence within the same day, but only if the Secretary determines that housing is reasonably available within the approximate area of employment. An employer who offers a housing allowance pursuant to this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) merely by virtue of providing such housing allowance.

"(iii) SPECIAL HOUSING STANDARDS FOR SHORT DURATION EMPLOYMENT.— The Secretary shall promulgate special regulations permitting the provision of short-term temporary housing for workers employed in occupations in which employment is expected to last 40 days or less.

"(iv) TRANSITIONAL PERIOD FOR PROVISION OF SPECIAL HOUSING STANDARDS IN OTHER EMPLOYMENT.—For a period of five years after the date of enactment of this section, the Secretary shall approve the provision of housing meeting the standards described in clause (iii) in occupations expected to last longer than 40 days in areas where available housing meeting the criteria described in subparagraph (i) is found to be insufficient.

"(v) PREEMPTION OF STATE AND LOCAL STANDARDS.—The standards described in clauses (ii) and (iii) shall preempt any State and local standards governing the provision of temporary housing to agricultural workers.

"(C) REIMBURSEMENT OF TRANSPORTATION COSTS.—The employer has offered to reimburse H-2A aliens and workers recruited from beyond normal commuting distance the most economical common carrier transportation charge and reasonable subsistence from the place from which the worker comes to work for the employer, (but not more than the most economical common carrier transportation charge from the worker's normal place of residence) if the worker completes 50 percent of the anticipated period of employment. If the worker recruited from beyond normal commuting distance completes the period of employment, the employer will provide or pay for the worker's transportation and reasonable subsistence to the worker's next place of employment, or to the worker's normal place of residence, whichever is less.

"(D) GUARANTEE OF EMPLOYMENT.—The employer has offered to guarantee the worker employment for at least three-fourths of the workdays of the employer's actual period of employment in the occupation. Workers who abandon their employment or are terminated for cause shall forfeit this guarantee.

"(6) PREFERENCE FOR UNITED STATES WORKERS.—The employer has not assured on the application that the employer will provide employment to all qualified United States workers who apply to the employer and assure that they will be available at the time and place needed until the time the employer's foreign workers depart for the employer's place of employment (but not sooner than 5 days before the date workers are needed), and will give preference in employment to United States workers who are immediately available to fill job opportunities that become available after the date work in the occupation begins.".

SEC. 3. SPECIAL RULES APPLICABLE TO THE ISSUANCE OF LABOR CERTIFICATIONS.

Section 218(c) (8 U.S.C. 1188(c)) of the Immigration and Nationality Act is amended to read as follows:

"(c) SPECIAL RULES APPLICABLE TO THE ISSUANCE OF LABOR CERTIFICATIONS.—The following rules shall apply to the issuance of labor certifications by the Secretary under this section:

"(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary may not require that the application be filed more than 40 days before the first date the employer requires the labor or services of the H-2A worker.

"(2) NOTICE WITHIN SEVEN DAYS OF DEFICIENCIES.—

"(A) The employer shall be notified in writing within seven calendar days of the date of filing, if the application does not meet the criteria described in subsection (b) for approval.

"(B) If the application does not meet such criteria, the notice shall specify the specific deficiencies of the application and the Secretary shall provide an opportunity for the prompt resubmission of a modified application.

"(3) ISSUANCE OF CERTIFICATION.—

"(A) The Secretary shall provide to the employer, not later than 20 days before the date such labor or services are first required to be performed, the certification described in subsection (a)(1)—

"(i) with respect to paragraph (a)(1)(A) if the employer's application meets the criteria described in subsection (b), or a statement of the specific reasons why such certification can not be made, and

"(ii) with respect to subsection (a)(1)(B), to the extent that the employer does not actually have, or has not been provided with the names, addresses and Social Security numbers of workers referred to the employer who are able, willing and qualified and have indicated they will be available at the time and place needed to perform such labor or services on the terms and conditions of the job offer approved by the Secretary. For each worker referred, the Secretary shall also provide the employer with information sufficient to permit the employer to contact the referred worker for the purpose of reconfirming the worker's availability for work at the time and place needed.

"(B) If, at the time the Secretary determines that the employer's job offer meets the criteria described in subsection (b) there are already unfilled job opportunities in the occupation and area of intended employment for which the employer is seeking workers, the Secretary shall provide the certification at the same time the Secretary approves the employer's job offer.".

SEC. 4. EXPEDITED APPEALS OF CERTAIN DETERMINATIONS.

Section 218(e) (8 U.S.C 1188(e)) of the Immigration and Nationality Act is amended to read as follows:

"(e) EXPEDITED APPEALS OF CERTAIN DETERMINATIONS.—The Secretary shall provide by regulation for an expedited procedure for the review of the nonapproval of an employer's job offer pursuant to subsection (c)(2) and of the denial of certification in whole or in part pursuant to subsection (c)(3) or, at the applicant's request, a de novo administrative hearing respecting the nonapproval or denial.".

SEC. 5. PROCEDURES FOR THE CONSIDERATION OF H-2A PETITIONS.

Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended—

(1) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively; and

(2) by adding the following after subsection (e):

"(f) PROCEDURES FOR THE CONSIDERATION OF H-2A PETITIONS.—The following procedures shall apply to the consideration of petitions by the Attorney General under this section:

"(1) EXPEDITED PROCESSING OF PETITIONS.—The Attorney General shall provide an expedited procedure for the adjudication of petitions filed under this section, and the notification of visa-issuing consulates where aliens seeking admission under this section will apply for visas and/or ports of entry where aliens will seek admission under this section within 15 calendar days from the date such petition is filed by the employer.

"(2) EXPEDITED AMENDMENTS TO PETITIONS.—The Attorney General shall provide an expedited procedure for the amendment of petitions to increase the number of workers on or after five days before the employers date of need for the labor or services involved in the petition to replace referred workers whose continued availability for work at the time and place needed under the terms of the approved job offer can not be confirmed and to replace referred workers who fail to report for work on the date of need and replace referred workers who abandon their employment or are terminated for cause, and for which replacement workers are not immediately available pursuant to subsection (b)(6).".

SEC. 6. LIMITATION ON EMPLOYER LIABILITY.

Section 218(g) (8 U.S.C. 1188(g)) of the Immigration and Nationality Act is amended—

(1) by redesignating paragraph (2) as paragraph (2)(A); and

(2) by inserting after paragraph (2)(A) the following:

"(B) No employer shall be subject to any liability or punishment on the basis of an employment action or practice by such employer that conforms with the terms and conditions of a job offer approved by the Secretary pursuant to this section, unless and until the employer has been notified that such certification has been amended or invalidated by a final order of the Secretary or of a court of competent jurisdiction.".

SEC. 7. LIMITATION ON JUDICIAL REMEDIES.

Section 218(h) of the Immigration and Nationality Act (8 U.S.C. 1188(h)) is amended by adding at the end thereof the following:

"(3) No court of the United States shall have jurisdiction to issue any restraining order or temporary or permanent injunction preventing or delaying the issuance by the Secretary of a certification pursuant to this section, or the approval by the Attorney General of a petition to import an alien as an H-2A worker, or the actual importation of any such alien as an H-2A worker following such approval by the Attorney General.".

SUMMARY OF THE BILL TO REFORM THE IMMIGRATION AND NATIONALITY ACT WITH RESPECT TO THE H-2A TEMPORARY AGRICULTURAL WORKERS PROGRAM

The following proposed changes to the H-2A program would improve its timeliness and utility for agricultural employers in addressing agricultural labor shortages, while providing wages and benefits that equal or exceed the median level of compensation in non-H-2A occupations, and reducing the vulnerability of the program to being hamstrung and delayed by litigation.

1. Reduce the advance filing deadline from 60 to 40 days before workers are needed.

Rationale: In many agricultural operations, 60 days is too far in advance to be able to predict labor needs with the precision required in H-2A applications. Furthermore, virtually all referrals of U.S. workers who actually report for work are made close to the date of need. The advance application period serves little purpose except to provide time for litigation.

2. In lieu of the present certification letter, DOL would issue the employer a domestic recruitment report indicating that the employer's job offer meets the statutory criteria (or the specific deficiencies in the order) and the number of U.S. workers referred, per #3 below. The employer would file a petition with INS for admission of aliens (or transfer of aliens already in the United States), including a copy of DOL's domestic recruitment report and any countervailing evidence concerning the adequacy of the job offer and/or the availability of U.S. workers. The Attorney General would make the admission decision.

Rationale: The purpose is to restore the role of the Labor Department to that of giving advice to the AG on labor availability, and return the true gatekeeper role to the AG. Presently the certification letter is, de facto, the admission decision.

3. DOL provides employer with a domestic recruitment report not later than 20 days before the date of need stating either that sufficient domestic workers are not available, or giving the names and Social Security Numbers of the able, willing and qualified workers who have been referred to the employer and who have agreed to be available at the time and place needed. DOL also provides a means for the employer to contact the referred worker to confirm availability close to the date of need. DOL would be empowered to issue a report that sufficient domestic workers are not available without waiting until 20 days before the date of need for workers if there are already unfilled orders for workers in the same or similar occupations in the same area of intended employment.

Rationale: DOL now denies certification not only on the basis of workers actually referred to the employer, but also on the basis of reports or suppositions that unspecified numbers of workers may become available. These suppositions almost never prove correct, forcing the employer into costly and time wasting redeterminations on or close to the date of need and delaying the arrival of workers. The proposed change would assure that only workers actually identified as available would be the basis for denying foreign workers. DOL also interprets the existing statutory language as precluding it from issuing each labor certification until 20 days before the date of need, even in situations where ongoing recruitment shows that sufficient workers are not available.

4. INS to provide expedited processing of employer's petitions, and, if approved, notify the visa issuing consulate or port of entry within 15 calendar days.

Rationale: The assure timely admission decisions.

5. INS to provide an expedited procedures for amending petitions to increase the number of workers admitted (or transferred) on or after 5 days before the date of need, to replace referred workers whose continued availability can not be confirmed, who fail to report on the date of need, or who abandon employment or are terminated for cause, without first obtaining a redetermination of need from DOL.

Rationale: To reduce the paperwork and increase the timeliness of obtaining needed workers very close to or after the work has started.

6. DOL would continue to recruit domestic workers and make referrals to employers until 5 days before the date of need. Employers would be required to give preference to able, willing and qualified workers who agree to be available at the time and place needed who are referred to the employer until 5 days before the date workers are needed. After that time, employers would be required to give preference to U.S. workers who are immediately available in filling job opportunities that become available, but would not be required to bump alien workers already employed.

Rationale: A method is needed to allow the employer at a date-certain close to the date of need to complete his hiring, and to operate without having the operation disrupted by having to displace existing workers with new workers.

7. Create a "bounded definition" of adverse effect by enumerating the specific obligations of employers in occupations in which H-2A aliens are employed. The proposed definition would define jobs that meet the following criteria as not adversely affecting U.S. workers:

7a. Offer at least the median rate of pay for the occupation in the area of intended employment.

7b. Provide approved housing or, if sufficient housing is available in the approximate area of employment, a reasonable housing allowance, to workers whose permanent place of residence is beyond normal commuting distance.

NOTE: Provision should also be made to allow temporary housing that does not meet the full set of Federal standards for a transitional period in areas where sufficient housing that meets standards is not presently available, and for such temporary housing on a permanent basis in occupations in which the term of employment is very short (e.g. cherry harvesting, which lasts about 15-20 days) if sufficient housing that meets the full standards is not available. Federal law should pre-empt state and local laws and codes with respect to the provision of such temporary housing.

7c. Current transportation reimbursement requirements (i.e. employer reimburses transportation of workers who complete 50 percent of the work contract and provides or pays for return transportation for workers who complete the entire work contract).

7d. A guarantee of employment for at least three-quarters of the anticipated hours of work during the actual period of employment.

7e. Employer-provided Workers' Compensation or equivalent.

7f. Employer must comply with all applicable federal, state and local labor laws with respect to both U.S. and alien workers.

Rationale: The objective is to eliminate the discretion of DOL to specify terms and conditions of employment on a case-by-case basis and reduce the scope for litigation of applications. Employers (and the courts) would know with particularity, up front, what the required terms and conditions of employment are. The definition also reduces the cost premium for participating in the program by relating the Adverse Effect Wage Rate to the minimum wage and limiting the applicability of the three-quarters guarantee to the actual period of employment.

8. Provide that workers must exhaust administrative remedies before engaging their employers in litigation.

Rationale: To reduce litigation costs.

9. Provide that if an employer complies with the terms of an approved job order, and DOL or a court later orders a provision to be changed, the employer would be required to comply with the new provision only prospectively.

Rationale: To reduce the exposure of employers to litigation seeking to overturn DOL's approval of job orders, and to retroactive liability if an approved order is changed.•

By Mr. KERREY (for himself and Mr. SIMPSON):

S. 2176. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide for personal investment plans funded by employee security payroll deductions; to the Committee on Finance.

THE PERSONAL INVESTMENT PLAN ACT OF 1996

Mr. KERREY. Mr. President, in May 1995, it was my distinct pleasure to join the fine, distinguished Senator from Wyoming, the Honorable ALAN K. SIMPSON, to introduce the Kerrey-Simpson Retirement Reform bills. The intent of this series of eight bills has two important goals: Put Social Security and other Federal retirement programs on the path to long term fiscal health; and renew America's commitment to national savings.

Today, I rise with Senator SIMPSON to reintroduce two of these bills, S.824 and S.825, for the purpose of offering technical changes.

Specifically, it was our original intent to permit contributors to a personal investment plan to pass the balance of such plan to their surviving spouse upon their death, except if the surviving spouse agrees in writing that such balance should be transferred to a designated beneficiary, such as child or sibling. Our intent was to provide the contributor with the greatest amount of flexibility in his/her estate planning, while at the same time recognizing the vulnerability of a surviving spouse.

The second technical correction would require that in the event of the contributor's death where there is no

surviving spouse and there has been no designation of a beneficiary of the proceeds of the personal investment plan, the proceeds should revert to the deceased's estate, not to the Social Security trust fund. It was our original intent to allow contributors to retain ownership of their personal investment plan, even after death.

The third technical correction would permit financial institutions—in addition to banks—to administer personal investment plans. It was our original intent to permit personal investment plans to be administered by the identical institutions permitted to administer individual retirement accounts.

Finally, technical corrections are made to S.825 to adjust certain dates in the formula for determining benefits to our original intent.

As these changes are technical in nature, we have been assured by the actuaries of the Social Security Administration that such changes should have no effect on the solvency of the Social Security trust fund.

Finally, I would like to add what a joy and pleasure it has been to work with my good friend from Wyoming. His leadership and candidness on this issue will be sorely missed. But more importantly, Mr. President, the character and leadership of ALAN K. SIMPSON as a Senator, colleague, and friend will be equally difficult to replace in the U.S. Senate.

I wish him all the best in whatever his fine future holds, and I expect he will continue to fight the good fight on this matter of critical importance to our Nation's fiscal future.

Mr. SIMPSON. Mr. President, on May 18, 1995, I joined my able and steady colleague Senator BOB KERREY from Nebraska in introducing a series of eight bills to address the long-term problems of Social Security. I rise today to join Senator KERREY in reintroducing two bills, S. 824 and S. 825, which address the long-term solvency problems of the Social Security Program. The changes that Senator KERREY and I propose are technical in nature and are made in both S. 824 and S. 825 unless otherwise indicated.

Specifically, it was our original intent to permit contributors on a Personal Investment Plan [PIP] to pass the balance of such plan to their surviving spouse upon their death, except if the surviving spouse agrees in writing that such balance should be transferred to a designated beneficiary, such as a child or sibling. Our intent was to provide the contributor with the greatest possible flexibility in his or her estate planning, while at the same time recognizing the vulnerability of a surviving spouse.

The second technical correction would require that in the event of the contributor's death where there is no surviving spouse and there has been no designation of a beneficiary of the proceeds of the personal investment plan, the proceeds should revert to the deceased's estate, not to the Social Security trust fund. It was our original intent to allow contributors to retain ownership of their personal investment plan, even after death.

The third technical correction would permit financial institutions, in addition to banks, to administer personal investment plans. It was our original intent to permit personal investment plans to be administered by the identical institutions that were permitted to administer individual retirement accounts.

Finally, technical corrections are made to S. 825 to conform to our original intent adjustments in the formula for determining benefits to our original intent.

As these changes are technical in nature, we have been assured by the actuaries of the Social Security Administration that such changes should have no effect on the present solvency of the Social Security trust fund.

By Mr. SANTORUM:

S. 2177. A bill to authorize the Small Business Administration to provide financial and business development assistance to military reservists' small businesses, and for other purposes; to the Committee on Small Business.

THE MILITARY RESERVISTS SMALL BUSINESS RELIEF ACT

• Mr. SANTORUM. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2177

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 "Military Reservists Small Business Relief Act".

SEC. 2. REPAYMENT DEFERRAL FOR ACTIVE DUTY RESERVISTS.

Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end the following new subsection:

"(n) REPAYMENT DEFERRED FOR ACTIVE DUTY RESERVISTS.—

"(1) IN GENERAL.—The Administration shall, upon written request, defer repayment of a direct loan made pursuant to subsection (a) or (b), if such loan was incurred by a qualified borrower.

"(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) QUALIFIED BORROWER.—The term 'qualified borrower' means—

"(i) an individual who is an eligible Reserve and who received a direct loan under subsection (a) or (b) before being called or ordered to, or retained on, active duty as described in subparagraph (B); or

"(ii) a small business concern that received a direct loan under subsection (a) or (b) before an eligible Reserve, who is an owner, manager, or key employee described in subparagraph (C), was called or ordered to, or retained on, active duty as described in subparagraph (B).

"(B) ELIGIBLE RESERVE.—The term 'eligible Reserve' means a member of a reserve component of the Armed Forces serving pursuant to a call or order to active duty, or retention on active duty, during a period of military conflict.

"(C) OWNER, MANAGER, OR KEY EMPLOYEE.—An eligible Reserve is an owner, manager, or key employee described in this subparagraph if the eligible Reserve is an individual who—

"(i) has not less than a 20 percent ownership interest in the small business concern described in subparagraph (A)(ii);

"(ii) is a manager responsible for the day-to-day operations of such small business concern; or

"(iii) is a key employee (as defined by the Administration) of such small business concern.

"(D) PERIOD OF MILITARY CONFLICT.—The term 'period of military conflict' means—

"(i) a period of war declared by the Congress;

"(ii) a period of national emergency declared by the Congress or by the President; or

"(iii) a period for which members of reserve components of the Armed Forces are serving on active duty in the Armed Forces under a call or order to active duty, or retention on active duty, under section 688, 12301(a), 12302, 12304, or 12306 of title 10, United States Code.

"(3) PERIOD OF DEFERRAL.—The period of deferral for repayment under this subsection shall begin on the date on which the eligible Reserve is ordered to active duty during any period of military conflict and shall terminate on the later of—

"(A) 180 days after the date on which such eligible Reserve is discharged or released from that active duty; and

"(B) 180 days after the date of enactment of this subsection.".

"(4) NO ACCRUAL OF INTEREST DURING DEFERRAL.—During the period of deferral described in paragraph (3), repayment of principal and interest on the deferred loan shall not be required and no interest shall accrue on such loan.".

SEC. 3. DISASTER LOAN ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after the undesignated paragraph that begins "*Provided*, That no loan", the following new paragraph:

"(3)(A) The Administration may make such disaster loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to assist a small business concern (including a small business concern engaged in the lease or rental of real or personal property) that has suffered or is likely to suffer economic injury as the result of the owner, manager, or key employee of such small business concern being ordered to active duty during a period of military conflict.

"(B) Any loan or guarantee under this paragraph shall be made at an annual interest rate of not more than 4 percent, without regard to the ability of the small business concern to secure credit elsewhere.

"(C) No loan shall be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed $500,000, except that the Administration may waive

the $500,000 limitation if the Administration determines that the applicant constitutes a major source of employment in an area not larger than a county that is suffering a disaster.

"(D) For purposes of assistance under this paragraph, no declaration of a disaster area shall be required.

"(E) For purposes of this paragraph—

"(i) the term 'period of military conflict' means—

"(I) a period of war declared by the Congress;

"(II) a period of national emergency declared by the Congress or by the President; or

"(III) a period for which members of reserve components of the Armed Forces are serving on active duty in the Armed Forces under a call or order to active duty, or retention on active duty, under section 688, 12301(a), 12302, 12304, or 12306 of title 10, United States Code;

"(ii) the term 'economic injury' includes the inability of a small business concern to market or produce a product or to provide a service ordinarily provided by the small business concern; and

"(iii) the term 'owner, manager, or key employee' means an individual who—

"(I) has not less than a 20 percent ownership in the small business concern;

"(II) is a manager responsible for the day-to-day operations of such small business concern; or

"(III) is a key employee (as defined by the Administration) of such small business concern.".

(b) CONFORMING AMENDMENTS.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) in paragraph (1), by striking "7(b)(4),"; and

(2) in paragraph (2), by striking "7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8),".

SEC. 4. REGULATIONS.

Not later than 30 days after the date of enactment of this Act, the Small Business Administration may issue such regulations as may be necessary to carry out the amendments made by sections 2 and 3.

SEC. 5. APPLICABILITY AND EFFECTIVE DATES.

(a) APPLICABILITY.—This Act and the amendments made by this Act shall not apply to any member of a reserve component of the Armed Forces serving pursuant to a call or order to active duty, or retention on active duty, during a period of military conflict, who is eligible to participate in the Ready Reserve Mobilization Income Insurance Program established under section 512 of the National Defense Authorization Act for Fiscal Year 1996.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall take effect on the date of enactment of this Act.

(2) EXCEPTIONS.—

(A) LOAN REPAYMENT DEFERRAL.—The amendment made by section 2 shall apply with respect to any eligible Reserve called or ordered to, or retained on, active duty as the result of a period of military conflict occurring on or after August 1, 1990.

(B) DISASTER LOANS.—The amendments made by section 3 shall apply to economic injury suffered or likely to be suffered as the result of a period of military conflict occurring on or after August 1, 1990.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "economic injury" has the same meaning as in section 7(b)(3)(E) of the Small Business Act, as added by section 3 of this Act;

(2) the term "eligible Reserve" has the same meaning as in section 7(n)(2) of the Small Business Act, as added by section 2 of this Act; and

(3) the term "period of military conflict" has the same meaning as in section 7(n)(2) of the Small Business Act, as added by section 2 of this Act.●

By Mrs. KASSEBAUM (for herself, Mr. KENNEDY, Mr. DODD, Mr. DEWINE, Ms. MIKULSKI, and Mr. SIMON):

S. 2178. A bill to amend the Federal Food, Drug, and Cosmetic Act to allow for additional deferred effective dates for approval of applications under the new drugs provisions, and for other purposes; to the Committee on Labor and Human Resources.

THE BETTER PHARMACEUTICALS FOR CHILDREN ACT

Mrs. KASSEBAUM. Mr. President, today I am introducing the Better Pharmaceuticals for Children Act. This bill will create a new partnership among pharmaceutical researchers and manufacturers, pediatric researchers, and the government to improve the information about pediatric uses of pharmaceuticals. The provisions of this bill were originally included in S. 1477, the Food and Drug Administration [FDA] Performance and Accountability Act, which was approved in March, with bipartisan support, by the Senate Committee on Labor and Human Resources.

The Food, Drug, and Cosmetic Act requires a showing of safety and effectiveness before drugs can be marketed to the American public. Until recently, it was thought that such a showing would be the same for adults and children. It is now clear, however, that children are not small adults. They do not necessarily react to drugs the same way. New data are necessary to ensure that America's children have the same benefit of safe and effective drugs as our adults do. As it stands now, however, 80 percent of the drugs taken by children are not labelled for pediatric use.

The Better Pharmaceuticals for Children Act addresses this need for pediatric use data by providing an incentive to manufacturers to conduct pediatric studies for new and approved drugs. Manufacturers who provide pediatric data for the drugs most urgently needed by our children would receive an extra six months market exclusivity for their product. By taking this type of partnership approach, we can get critically needed information on pediatric uses. Providing the FDA with the extra authority to offer this type of encouragement will help to ensure that companies conduct such studies.

Under the bill, the Secretary of Health and Human Services is required to develop, in consultation with pediatric experts, a list of approved drugs for which additional pediatric information may produce health benefits in the pediatric population. For pediatric studies of new and approved drugs to trigger the six-month exclusivity incentive, they must be formally requested by the Secretary, and filed with the Secretary in an acceptable manner. Manufacturers would be precluded from obtaining more than one six-month period of exclusivity.

I am proud to join with Senators KENNEDY, DODD, DEWINE, MIKULSKI, and SIMON in introducing this bill. Mr. President, it creates a win-win situation in which manufacturers get a benefit for proactively testing drugs for pediatric use, while our children get timely access to the safe and effective drugs they so desperately need.

Mr. DODD. Mr. President, I rise today as a proud cosponsor, again, of the Better Pharmaceuticals for Children Act. I have cosponsored this legislation in several Congresses now, and hope that finally, we will pass this enormously important legislation.

This act would address a problem that pediatricians first recognized more than 30 years ago: information about safe and effective therapies for their young patients is scarce. According to the American Academy of Pediatrics only about one-fifth of all drugs marketed in the United States today, and only four of the 25 new drugs approved by the FDA last year, have been labeled for use by children.

Given this largely adults-only drug market, individual doctors face an uncomfortable dilemma with many of their child patients. Should doctors limit themselves to the handful of proven pediatric drugs? Some might not even exist for certain illnesses, and in such cases this could mean not treating a sick child. Or should they take a gamble on an adult drug and rely on their training, professional judgment, and luck to make it work as intended?

Most physicians find the latter option, known as "off-label prescribing," to be the more acceptable choice. As a result, the American Academy of Pediatrics says that off-label prescribing has "by default become an established standard of care of children."

This practice is neither illegal nor improper, but it can present unnecessary risk for young patients. Children are not just smaller than adults. Their bodies function very differently from adults. And as any parent can tell you, they change drastically from infancy to childhood to adolescence. For young, growing patients, the only way to be sure whether a medication is safe and effective, and what the dosage should be, is the test it on different age groups.

The Better Pharmaceuticals for Children Act is a straightforward solution to the unnecessary shortage of pediatric medicine. It grants an additional 6 months of market exclusivity for

drugs which have undergone pediatric studies according to accepted scientific protocols. This provides a fair and reasonable market incentive for drug companies to make the extra effort needed to label their products for use by children.

Simply put, this bill is a sensible way to keep our children healthier. That is why it has enjoyed broad bipartisan support, both inside and outside this body. In addition to the American Academy of Pediatrics, other supporters include the Pharmaceuticals Research and Manufacturers of America, and the Pediatric AIDS Foundation. I urge my colleagues to support this act.

By Mrs. BOXER:

S. 2179. A bill to protect children and other vulnerable subpopulations from exposure to certain environmental pollutants, and for other purposes; to the Committee on Environment and Public Works.

CHILDREN'S ENVIRONMENTAL PROTECTION ACT OF 1996

• Mrs. BOXER. Mr. President, I am today introducing a bill that will help protect the children of this country from the harmful effects of environmental pollutants including pesticides and other hazardous substances.

As a member of the Environment and Public Works Committee, I have worked to protect children and other vulnerable subpopulations from contaminants in drinking water. The Safe Drinking Water Act that was recently signed into law by President Clinton included my amendments to require that Environmental Protection Agency [EPA] drinking water standards be set at levels that take into account the special vulnerability of our children, our infants, pregnant women, our elderly, the chronically ill, and other groups that are at substantially higher risk than the average healthy adult. That was a very important step forward because our safe drinking water standards—and, in fact, most of our country's public protection standards—are set at levels to protect the average healthy person, and not our most vulnerable loved ones.

The bill I am introducing today, the Children's Environmental Protection Act [CEPA], carries the concept of my Safe Drinking Water Act amendments even further. It requires the EPA to set all health and safety standards at levels that protect our children and our vulnerable subpopulations.

Mr. President, this is a much needed step forward because science tells us that children are not simply smaller versions of adults. Recent studies by the National Academy of Sciences found that children are more vulnerable to the chemical hazards in the environment for two principal main reasons. First, children eat more food, drink more water, and breath more air as a percentage of their body weight than adults. As a consequence, they are more exposed to the chemicals present in food, water and air. Second, because children are still growing and many of their internal systems are still in the process of developing and maturing, children may be physiologically more susceptible than adults to the hazards associated with these exposures.

Today, there are more questions than ever with respect to children's developmental health. For example, it has been estimated that up to one half of a person's lifetime cancer risk may be incurred in the first six years of life, but current science cannot tell us exactly where and how children are exposed to cancer risks in the environment.

Unfortunately, while we have many questions, we have very few answers. It is clear that the factors behind the special environmental risks that children face need immediate special attention.

If the EPA is to be able to fulfill a mandate to set all of its standards to protect our children, it must collect more data and carry out more research to improve our understanding of how children are exposed to environmental pollutants, where they are exposed, and how the exposure may affect their health. My bill would require the EPA to work with the Secretary of Agriculture and the Department of Health and Human Services to develop and implement research studies to examine the physiological and pharmacokinetic effects of environmental pollutants on children and other vulnerable subpopulations. It also requires research on children's dietary, dermal and inhalation exposure to environmental pollutants.

Mr. President, CEPA would also institute measures that would help protect our children from coming into contact with environmental pollutants including pesticides and other hazardous substances. First, my bill includes a family-right-to-know initiative to be adopted by every State. The principle behind the initiative is that public health and safety depends on citizens being aware of the toxic dangers that exist in their communities and neighborhoods. We must provide basic information to parents to give them the ability to make informed decisions to protect their family.

The Children's Environmental Protection Act would require users who apply pesticides and other hazardous substances in public areas that are reasonably accessible to children, to keep a record of the amount of chemical used, where it was applied and when it was applied. States would provide the public with copies of annual reports summarizing the information. The reports would also be available on the Internet. Detailed information such as information on a particular school would be available to the public upon request. The EPA would complete a nationwide survey every two years and make the information available to the public in written form and on the Internet. So both scientists and parents would have information about to what extent children are being exposed in public areas such as school, parks, playgrounds, shopping malls, and movie theaters.

CEPA takes a further step in the case of schools and parks by requiring that the EPA identify a list of most dangerous commonly used hazardous substances and pesticides—and within one year prohibit their use.

I would like to pay tribute to one exceptional mother. This mother knows the intense sadness of losing her child. This very special mother lives in my State and I am proud to call her my friend. Three years ago, Mrs. Nancy Chuda came to visit me to ask for help. Her little girl, all of 5 years old, had died of a nongenetic form of cancer. No one knows why or how or what caused little Colette Chuda to become afflicted. She was a normal, beautiful girl in every way. She liked to draw pictures of flowers and happy people. One thing is certain, she was blessed to have two wonderful parents. Nancy and Jim Chuda, despite their grief, chose to turn their own personal tragedy into something positive. They have labored endlessly to bring to the country's attention the environmental dangers that threaten our children. If future illness and death can be prevented, I know we all will be indebted to the tremendous energy and perseverance of Nancy Chuda.

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

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

S. 2179

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 "Children's Environmental Protection Act of 1996".

SEC. 2. ENVIRONMENTAL PROTECTION FOR CHILDREN.

The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding at the end the following:

"TITLE V—ENVIRONMENTAL PROTECTION FOR CHILDREN

"SEC. 501. FINDINGS AND POLICY.

"(a) FINDINGS.—Congress finds that—

"(1) public health and safety depends on citizens and local officials knowing the toxic dangers that exist in their communities and neighborhoods;

"(2) children and other vulnerable subpopulations are more at risk from environmental pollutants than adults and therefore face unique health threats that need special attention;

"(3) a study conducted by the National Academy of Sciences on the effects of pesticides in the diets of infants and children concluded that current approaches to risk assessment typically do not consider risks to children and, as a result, current standards

and tolerances often fail to adequately protect infants and children;

"(4) risk assessments of pesticides and other environmental pollutants conducted by the Environmental Protection Agency do not clearly differentiate between the risks to children and the risks to adults;

"(5) data are lacking that would allow adequate quantification and evaluation of child-specific and other-vulnerable-subpopulation-specific susceptibility and exposure to environmental pollutants; and

"(6) the absence of data precludes effective government regulation of environmental pollutants, and denies individuals the ability to exercise a right to know and make informed decisions to protect their families.

"(b) POLICY.—It is the policy of the United States that—

"(1) all environmental and public health standards set by the Environmental Protection Agency must be adequate to protect children and other vulnerable subpopulations that are at greater risk from exposure to environmental pollutants;

"(2) adequate hazard data should be developed with respect to the special vulnerability and exposure to environmental pollutants of children and other vulnerable subpopulations to better assess where, and at what levels, children and other vulnerable subpopulations are being exposed;

"(3) scientific research opportunities should be identified by the Environmental Protection Agency to study the health effects of cumulative and simultaneous exposures of children and other vulnerable subpopulations to environmental pollutants;

"(4) information should be made readily available by the Environmental Protection Agency to the general public to advance the public's right-to-know, and allow the public to avoid unnecessary and involuntary exposure; and

"(5) a family right-to-know initiative should be developed by the Environmental Protection Agency to provide parents with basic information so the parents can make informed choices to protect their children from environmental health threats in their homes, schools, and communities.

"SEC. 502. DEFINITIONS.

"In this title:

"(1) CHILDREN.—The term 'children' includes adolescents and infants.

"(2) ENVIRONMENTAL POLLUTANT.—The term 'environmental pollutant' means a hazardous substance, as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), or a pesticide, as defined in section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136).

"(3) USER.—The term 'user' means any commercial applicator of, or any person who applies, an environmental pollutant in a school, park, or public area that is reasonably accessible to children.

"(4) VULNERABLE SUBPOPULATIONS.—The term 'vulnerable subpopulations' means children, pregnant women, the elderly, individuals with a history of serious illness, and other subpopulations identified by the Administrator as likely to experience elevated health risks from environmental pollutants.

"SEC. 503. FAMILY RIGHT-TO-KNOW INITIATIVE.

"(a) IN GENERAL.—The Administrator shall work with each State to develop a family right-to-know initiative in accordance with this section.

"(b) GRANTS.—

"(1) IN GENERAL.—The Administrator shall make grants to States to develop and carry out a family right-to-know initiative in accordance with this section.

"(2) TERMS AND CONDITIONS.—Grants made under this subsection shall be subject to such terms and conditions as the Administrator establishes to further the purposes of this title.

"(c) REQUIREMENTS OF INITIATIVE.—A State carrying out a family right-to-know initiative shall—

"(1) require that any user who applies an environmental pollutant in a public area that is reasonably accessible to children complete a simple, easy-to-understand form that provides the amount of environmental pollutant applied, where the environmental pollutant was applied, and when the environmental pollutant was applied;

"(2) work with the Administrator to—

"(A) develop a uniform definition of the term 'public area that is reasonably accessible to children' for purposes of this section, that shall include, at a minimum, schools, shopping malls, movie theaters, and parks;

"(B) develop a uniform form to be completed by users under paragraph (1);

"(C) determine the manner and length of time of keeping the forms completed by users; and

"(D) determine the format for reporting information collected under paragraph (1) to the public;

"(3) prepare annual State reports summarizing the information collected under paragraph (1) for distribution to the Administrator;

"(4) provide the public with copies of annual State reports and local recordkeeping for schools, parks, and public areas;

"(5) make State reports available to the public on the Internet;

"(6) provide the Administrator with such data as the Administrator requests to prepare a nationwide survey under subsection (d); and

"(7) satisfy such other requirements as the Administrator prescribes to carry out this section.

"(d) NATIONWIDE SURVEYS.—

"(1) IN GENERAL.—The Administrator shall prepare a biennial nationwide survey of the information collected under this section.

"(2) ASSESSMENT.—The nationwide survey shall assess the extent to which environmental pollutants are present in private office and commercial buildings that are reasonably accessible to children.

"(3) RECOMMENDATION.—The nationwide survey shall recommend whether public recordkeeping and public reporting concerning application of environmental pollutants in areas that are reasonably accessible to children should be required.

"(e) PUBLIC AVAILABILITY OF INFORMATION.—

"(1) IN GENERAL.—On request by a member of the public, the Administrator shall provide a copy of any State report or nationwide survey prepared under this section.

"(2) INTERNET.—The Administrator shall make any State report or nationwide survey prepared under this section available to the public on the Internet.

"SEC. 504. SAFE SCHOOLS AND PARKS.

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Administrator shall—

"(1) identify hazardous substances and pesticides commonly used in schools and parks;

"(2) create, after peer review, a list of the substances identified in paragraph (1) with high hazard health risks to children and other vulnerable subpopulations;

"(3) make the list created under paragraph (2) available to the public;

"(4) review the list created under paragraph (2) on a biennial basis; and

"(5) develop and issue an Environmental Protection Agency approved sign and label for posting by a school or park to indicate that high hazard environmental pollutants were not used in the school or park.

"(b) COOPERATION.—The Administrator shall work with the Secretary of Health and Human Services, the Secretary of Education, the Secretary of the Interior, and the Secretary of Agriculture to ensure wide public distribution of the list created under subsection (a)(2).

"(c) COMPLIANCE BY SCHOOLS AND PARKS.—Not later than 1 year after the list created under subsection (a)(2) is made available to the public, the Administrator shall prohibit a school or park from using any environmental pollutant on the list.

"SEC. 505. RESEARCH TO IMPROVE INFORMATION ON EFFECTS ON CHILDREN.

"(a) TOXICITY DATA.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall coordinate the development and implementation of research studies to examine the physiological and pharmacokinetic differences in the effects and toxicity of pesticides (including active and inert ingredients) and other environmental pollutants on children and other vulnerable subpopulations, as identified in the study of the National Academy of Sciences entitled 'Pesticides in the Diets of Infants and Children'.

"(b) EXPOSURE DATA.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall conduct surveys and applied research to document differences between children and adults with respect to dietary, dermal, and inhalation exposure to pesticides and other environmental pollutants.

"(c) BIENNIAL REPORTS.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall submit biennial reports to Congress on actions taken to carry out this section.

"SEC. 506. SAFEGUARDING CHILDREN AND OTHER VULNERABLE SUBPOPULATIONS.

"(a) IN GENERAL.—The Administrator shall—

"(1) evaluate environmental health risks to vulnerable subpopulations in all of the risk assessments, risk characterizations, environmental and public health standards, and general regulatory decisions carried out by the Administrator;

"(2) carry out paragraph (1) in accordance with the policy of the Environmental Protection Agency on the assessment of risks to children in effect on November 1, 1995; and

"(3) develop and use a separate assessment or finding of risks to vulnerable subpopulations or publish in the Federal Register an explanation of why the separate assessment or finding is not used.

"(b) REEVALUATION OF CURRENT PUBLIC HEALTH AND ENVIRONMENTAL STANDARDS.—

"(1) IN GENERAL.—As part of any risk assessment, risk characterization, environmental or public health standard, or general regulatory decision carried out by the Administrator, the Administrator shall evaluate the environmental health risks to children and other vulnerable subpopulations.

"(2) IMPLEMENTATION.—In carrying out paragraph (1), not later than 1 year after the date of enactment of this title, the Administrator shall—

"(A) develop an administrative strategy and an administrative process for reviewing standards;

"(B) identify a list of standards that may need revision to ensure the protection of children and vulnerable subpopulations;

"(C) prioritize the list according to the standards that are most important for expedited review to protect children and vulnerable subpopulations;

"(D) identify which standards on the list will require additional research in order to be reevaluated and outline the time and resources required to carry out the research; and

"(E) identify, through public input and peer review, not fewer than 5 public health and environmental standards of the Environmental Protection Agency to be repromulgated on an expedited basis to meet the criteria of this subsection.

"(3) REVISED STANDARDS.—Not later than 6 years after the date of enactment of this title, the Administrator shall propose not fewer than 5 revised standards that meet the criteria of this subsection.

"(4) COMPLETED REVISION OF STANDARDS.—Not later than 15 years after the date of enactment of this title, the Administrator shall complete the revision of standards in accordance with this subsection.

"(5) REPORT.—The Administrator shall report to Congress on an annual basis on progress made by the Administrator in carrying out the objectives and policy of this subsection.

"SEC. 507. PUBLIC AVAILABILITY OF DATA.

"(a) DISCLOSURE OF HEALTH EFFECTS AND EXPOSURE DATA.—Subject to subsection (b), any data or information known by a Federal agency concerning any test of a pesticide, residue of a pesticide, or other environmental pollutant to determine the potential levels of exposure or health effects shall be available for disclosure to the public, except to the extent the data or information relates to—

"(1) a manufacturing or quality control process;

"(2) a method for detecting the quantity of any deliberately added inert ingredient of a chemical substance other than a method for detecting a residue of the inert ingredient in or on food; or

"(3) explicit information derived from a pesticide use form submitted under section 1491 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 136i-1).

"(b) DATA AND INFORMATION SUBMITTED UNDER FIFRA.—Any data or information described in subsection (a) that was submitted to the Administrator under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) shall be made available for disclosure to the public in accordance with section 10 of the Act (7 U.S.C. 136h).

"(c) DISCLOSURE.—This section shall not restrict the release of—

"(1) information that is otherwise subject to disclosure under section 552 of title 5, United States Code; or

"(2) information available through—

"(A) a material safety data sheet;

"(B) published scientific literature; or

"(C) a government document.

"SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this title.".•

By Mr. KOHL (for himself and Mr. SHELBY):

S. 2180. A bill to establish felony violations for the failure to pay legal child support obligations and for other purposes; to the Committee on the Judiciary.

THE DEADBEAT PARENTS PUNISHMENT ACT OF 1996

• Mr. KOHL. Mr. President, I introduce the Deadbeat Parents Punishment Act of 1996. Along with Senator SHELBY and Congressmen HYDE and SCHUMER, I introduced the original Child Support Recovery Act in 1992, and today I am pleased to introduce a bill that will toughen the original legislation to ensure that more serious crimes receive more serious punishment. In so doing, we can send a clear message to deadbeat dads—and moms: ignore the law, ignore your responsibilities, and you will pay a high price; that is, pay up or go to jail.

Current law already makes it a Federal offense to willfully fail to pay child support obligations to a child in another State if the obligation has remained unpaid for longer than a year or is greater than $5,000. However, current law provides for a maximum of just 6 months in prison for a first offense, and a maximum of 2 years for a second offense.

Police officers and prosecutors have used the current law effectively, but they have found that these penalties do not adequately deal with more serious cases—those deadbeat parents who deliberately ignore or evade the law. These are cases in which parents move from State to State to intentionally evade child support penalties, or fail to pay child support obligations for more than 2 years—serious cases that deserve serious punishment. In response to these concerns, President Clinton has drafted legislation that would address this problem, and I am pleased to introduce it today.

This new effort builds on past successes achieved through bipartisan work. In the 4 years since the original deadbeat parents legislation was signed into law by President Bush, collections have increased by nearly 50 percent, from $8 billion to $11.8 billion, and we should be proud of that increase. Moreover, a new national database has helped identify 60,000 delinquent fathers, over half of whom owed money to women on welfare.

Nevertheless, there is much more we can do. It has been estimated that if delinquent parents fully paid up their child support, approximately 800,000 women and children could be taken off the welfare rolls. Our legislation cracks down on the worst violators, and makes clear that intentional or long-term evasion of child support responsibilities will not receive a slap on the wrist. In so doing, it will help us continue the fight to ensure that every child receives the parental support they deserve.

Mr. President, we introduce this measure today, at the end of the session, in order to provide an opportunity for review in the coming months. But when we return for the 105th Congress, it will be one of my highest priorities. So I look forward to working with my colleagues to give police and prosecutors the tools they need to effectively pursue individuals who seek to avoid their family obligations.

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:

SECTION-BY-SECTION ANALYSIS

The Child Support Recovery Amendments Act of 1996 amends the current criminal statute regarding the failure to pay legal child support obligations, 18 U.S.C. §228, to create felony violations for egregious offenses. Current law makes it a federal offense willfully to fail to pay a child support obligation with respect to a child who lives in another State if the obligation has remained unpaid for longer than a year or its greater than $5,000. A first offense is subject to a maximum of six months of imprisonment, and a second or subsequent offense to a maximum of two years.

The bill addresses the law enforcement and prosecutorial concern that the current statute does not adequately address more serious instances of nonpayment of support obligations. A maximum term of imprisonment of just six months does not meet the sentencing goals of punishment and deterrence. Egregious offenses, such as those involving parents who move from State-to-State to evade child support payments, require more severe penalties.

Section 2 of the bill creates two new categories of felony offenses, subject to a two-year maximum prison term. These are: (1) traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than one year or is greater than $5,000; and (2) willfully failing to pay a support obligation regarding a child residing in another State, if the obligation has remained unpaid for a period longer than two years or is greater than $10,000. These offenses, proposed 18 U.S.C. §228(a) (2) and (3); indicate a level of culpability greater than that reflected by the current six-month maximum prison term for a first offense. The level of culpability demonstrated by offenders who commit the offenses described in these provisions is akin to that demonstrated by repeat offenders under current law, who are subject to a maximum two-year prison term.

Proposed section 228(b) of title 18, United States Code, states that the existence of a support obligation in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that period. Although "ability to pay" is not an element of the offense, a demonstration of the obligor's ability to pay contributes to a showing of willful failure to pay the known obligation. The presumption in favor of ability to pay is needed because proof that the obligor is earning or acquiring income or assets is difficult. Child support offenders are notorious for hiding assets and failing to document earnings. A presumption of ability to pay, based on the existence of a support obligation determined under State law, is useful in a jury's determination of whether the nonpayment was willful. An offender who lacks the ability to pay a support obligation due to legitimate, changed circumstances occurring after the issuance of a support order has civil means available to reduce the support obligation and thereby avoid violation of the federal criminal statute in the first instance. In addition, the presumption of ability to pay set forth in the

bill is rebuttable; a defendant can put forth evidence of his or her inability to pay.

The reference to mandatory restitution in proposed section 228(d) of title 18, United States Code, amends the current restitution requirement in section 228(c). The amendment conforms the restitution citation to the new mandatory restitution provision of federal law, 18 U.S.C. §3663A, enacted as part of the Antiterrorism and Effective Death Penalty Act of 1996, P.L. 104–132, section 204. This change simply clarifies the applicability of that statute to the offense of failure to pay legal child support obligations.

For all of the violations set forth in proposed subsection (a) of section 228, the requirement of the existence of a State determination regarding the support obligation is the same as under current law. Under proposed subsection (e)(1), as under current subsection (d)(1)(A), the government must show that the support obligation is an amount determined under a court order or an order of a administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living.

Proposed subsection (e)(2) of section 228 amends the definition of "State," currently in subsection (d)(2), to clarify that prosecutions may be brought under this statute in a commonwealth, such as Puerto Rico. The current definition of "State" in section 228, which includes possessions and territories of the United States, does not include commonwealths.•

By Mr. DORGAN:

S. 2181. A bill to provide for more effective management of the National Grasslands, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL GRASSLANDS MANAGEMENT ACT

Mr. DORGAN. Mr. President, today I am introducing the National Grasslands Management Act. This bill applies to the grasslands in North Dakota and half a dozen other States. I want to explain briefly what the objective of this bill is and how it came about.

For several years, the ranchers in western North Dakota have been asking for a less cumbersome approach to management of the grasslands and in North Dakota, both Chambers of the 1995 legislature passed a resolution unanimously asking for change on the grasslands as well.

The current regulatory regime is cumbersome mainly because the Forest Service must manage the grasslands under the same framework as it does the rest of the National Forest System. It doesn't handle efficiently the day-to-day problems of the ranchers and grazing associations. For example, ranchers have had to wait for as long as 2 to 3 years to get approval for a stock tank because of the labyrinth of regulations that the Forest Service overlays on the management of the grasslands. This legislation will change that by removing the national grasslands from the National Forest System and creating a new structure of rules specifically suited to the grasslands and their environment.

However, it is not only the ranchers needs that I am attempting to address. There is a broad range of uses on the public lands which must be protected. All hunting, fishing and recreational activities will continue as before and environmental protections will continue to be in place. Further, it is my intention that the public must be involved in the decision making process as these new rules are implemented. Only by working together can we solve the problems on the grasslands.

Several environmental groups and interested citizens have expressed concern that this bill, which was originally incorporated as part of a larger grazing package, would make grazing the dominant use of the public lands at the expense of other uses and some have expressed concern that this bill would prohibit hunting and fishing, end the multiple use of the national grasslands, turn over the management of the grasslands to the ranchers and disconnect the grasslands from environmental laws such as the Endangered Species Act, the Clean Air Act, and the Clean Water Act.

These concerns are unfounded. I have worked diligently with the ranchers, environmentalists, and other recreational users of the grasslands to ensure that further misinterpretation is not possible. The result of that work is the National Grasslands Management Act that I am introducing today.

The legislation explicitly states that there will be no diminished hunting or fishing opportunities, that all applicable environmental laws will apply to those lands, and that the grasslands will be managed under a multiple use policy. The bill directs the Secretary to promulgate regulations which promote the efficient administration of livestock agriculture and provide environmental protections equivalent to that of the National Forest System.

In short, I believe that the National Grasslands Management Act is a solid piece of legislation that will make the administration of the Grasslands more responsive to the people who live there, without diminishing the rights and opportunities of other multiple users of this public land.

By Mr. DORGAN (for himself and Mr. CONRAD):

S. 2182. A bill to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes; to the Committee on Energy and Natural Resources.

MINERAL RIGHTS EXCHANGE LEGISLATION

Mr. DORGAN. Mr. President, today, I, along with Senator KENT CONRAD, am introducing a bill that will facilitate a mineral exchange in Western North Dakota. The purpose of this mineral exchange is to consolidate certain mineral estates of both the U.S. Forest Service and Burlington Resources, formerly known as Meridian Oil. This consolidation will produce tangible benefits to an economically distressed region in North Dakota and also protect environmentally sensitive areas.

For years, the land and mineral ownership pattern in Western North Dakota has been extremely fragmented. In many cases the Forest Service owns and manages the surface land while private parties, such as Burlington Resources, own the subsurface mineral estates. This fragmentation has not only frustrated the management objectives of the Forest Service, it has also inhibited mineral exploration and development.

By consolidating the mineral estates, the Forest Service will have the opportunity to protect the viewshed along the Little Missouri River, creating a more attractive hunting, fishing and hiking area. Further, the mineral exchange will protect certain bighorn sheep calving areas. The Forest Service and Burlington have already signed a Memorandum of Understanding which will aid in the protection of wildlife and wildlife habitat after the exchange is concluded. The exchange is also supported by all major environmental groups in the State, the Governor of North Dakota, and the Bureau of Land Management's Dakotas Resource Advisory Council.

Burlington Resources supports this legislation. Burlington will have better opportunities for mineral exploration and development within their consolidated mineral estates. This increased development will benefit not only Burlington, but also Billings County and the State of North Dakota through increased tax revenue..

One point that I would like to make clear is that this mineral exchange should in no way be seen as affecting the multiple uses of the land. Current multiple uses, such as recreation, livestock grazing, watershed protection or fish and wildlife purposes, will continue as before.

I would also like to point out that this mineral exchange is not meant as a preamble to—or a substitute for—a designation of this area as wilderness. I do not favor the designation of wilderness within Billings County.

May I further underscore that this mineral exchange costs the U.S. taxpayer nothing. The bill provides for an exchange of about the same number of acres with equivalent monetary values. Yet, this no-cost transaction will yield substantial economic, environmental, and management dividends.

It is my hope that this mineral exchange will address some of the difficult land use questions in this area. It will accomplish a number of objectives. It will protect certain environmentally sensitive and scenic areas from development and I think that is important in these unique circumstances. It will

also consolidate mineral holdings so that more orderly and predictable development will occur where development is feasible and appropriate. And, as I noted before, it will preserve a multiple use framework for managing these lands so that grazing and other activities are not otherwise affected by this legislation.

Further, it does not rely on the Government imposing a solution. Rather, this voluntary agreement embodies a consensus reached between the affected parties, the mineral holders, the State and its citizens, the environmental organizations, and the United States Forest Service.

I ask unanimous consent that letters of support from the Governor of North Dakota, the Dakotas Resource Council and the Sierra Club, and the Memorandum of Understanding signed by the Forest Service and Burlington Resources be printed in the RECORD in order to aid my colleagues in their deliberations on the bill.

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

STATE OF NORTH DAKOTA,
Bismark, ND, July 25, 1996.

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

DEAR SENATOR DORGAN: The State of North Dakota supports the introduction of a bill which would implement a proposed mineral exchange between the United States Forest Service and Meridian Oil, Inc. This effort will advance our "2020" program to plan and implement sound management of the Badlands well into the future.

Current land and mineral ownership patterns in the Bullion Butte and Ponderosa Pine areas of the Little Missouri National Grasslands are fragmented, thereby complicating management of surface and mineral resources.

The proposed exchange is an opportunity to consolidate ownership, enhance natural badlands habitat adjacent to the Little Missouri River and facilitate mineral development while reducing conflict by competing activities.

Finally, I have included a summary describing more completely, the intended exchange and its effect.

Sincerely,

EDWARD T. SCHAFER,
Governor.

LEGISLATION TO EFFECT AN EXCHANGE OF MINERAL RIGHTS IN THE LITTLE MISSOURI NATIONAL GRASSLANDS, BILLINGS, ND

For over a decade, the United States Forest Service (USFS) and Meridian Oil, Inc. (Meridian) have been considering a possible exchange of oil and gas rights in the Bullion Butte and Ponderosa Pine areas of the Little Missouri National Grasslands in North Dakota. The land ownership pattern in those areas is very fragmented, with both federal and privately owned mineral rights and federal surface and private subsurface estates. This lack of unity between the surface and subsurface estates and intermixture of public and private mineral rights have complicated both effective management of surface resource values and efficient extraction of minerals. The USFS views an exchange to consolidate mineral ownerships as an opportunity to protect bighorn sheep and their habitat and the viewshed in the Little Missouri River corridor. Meridian expects an exchange to facilitate exploration for and development of oil and gas by reducing the conflict such activities would have with other sensitive Grasslands resources.

At the urging of Senator Dorgan and Governor Schafer, the USFS and Meridian reached an agreement last year on an exchange of certain federal and private mineral rights and the imposition of certain constraints on Meridian oil and gas activities. The agreement would be implemented by this legislation.

What the legislation does. The legislation would accomplish the following:

Direct the completion of the transfer of Meridian's mineral rights in approximately 9,582 acres to the USFS for federal oil and gas rights in 8,796 acres, all in Billings County, North Dakota, within 45 days of enactment.

Authorize the exchange of any other private mineral rights in the same area for federal mineral rights within 6 months of enactment.

Deem the mineral rights to be transferred in the USFS/Meridian exchange to be of equal value (since the two parties have already negotiated the exchange and are of the informed opinion that the values are equivalent) and require that the other mineral rights to be transferred be of approximately equal value.

Require Meridian, as a condition for the exchange, to secure release of any leasehold or other contractual rights that may have been established on the Meridian oil and gas interests that will be exchanged.

Assure Meridian that it will have access across federal lands to be able, subject to applicable federal and State laws, to explore for and develop oil and gas on the interests it will receive in the exchange and that it will have the same surface occupancy and use rights on the interests it will receive that it now holds on the interests to be surrendered.

Find that the USFS/Meridian exchange meets the requirements of other federal exchange, environmental, and cultural laws that would apply if the exchange were to be processed without Congressional approval and direction.

Assure that no provision of the legislation can be interpreted to limit, restrict, or otherwise affect the application of the principle of multiple use (including such uses as hunting, fishing, grazing and recreation) in the Grasslands.

In addition to facilitating the exchange, the legislation would memorialize a Memorandum of Understanding (MOU) also negotiated and executed by the USFS and Meridian concerning management of certain Meridian oil and gas properties that will remain in Grasslands' areas with high surface resource values. In particular the MOU, adopted by reference in the legislation, obligates Meridian to make its best efforts to locate any oil and gas facilities and installations outside of the ¼ mile view corridor on either side of the stretch of the Little Missouri River being considered for designation as a Wild and Scenic River and to access certain other property adjacent to an important bighorn sheep lambing area only by directional drilling.

Equally important is what the legislation does not do:

It does not increase the amount of surface which the USFS controls. The USFS currently controls the surface on essentially all the land involved in the exchange, and this will not change since only mineral interests will be transferred.

It does not decrease the federal land available for oil and gas development. To the contrary, in the exchange the federal government will receive a net gain of almost 800 acres in mineral rights that may be leased for exploration and development by other parties. And, by consolidating federal mineral rights which now are scattered in a checkerboard pattern, access to them should be improved. The extent to which existing and new federal mineral rights are leased to private parties will be decided by the USFS in the ongoing planning and Environmental Impact Statement for the Southern Little Missouri Grasslands. The "multiple use" provision of the legislation makes certain the legislation will not affect that decision-making process.

It does not decrease revenue to the county, state, and federal governments. For the same reason that the exchange would not decrease land available for oil and gas development, the economic interests of taxing entities and the oil and gas industry should not be affected significantly by the exchange. In fact, with Meridian consolidating its mineral holdings in a more manageable and less sensitive unit, area oil and gas activity should increase and produce a net positive economic effect.

It does not provide either Meridian or USFS with mineral rights of greater value than those they now hold. The USFS with the assistance of the Bureau of Land Management, has reached the conclusion that the mineral rights to be exchanged between the USFS and Meridian are of equal value. Some additional value will accrue to both sets of mineral rights transferred by the exchange because of the greater ease of access and management that will result from consolidation. The legislation requires that any other mineral rights exchanged by other parties under the legislation be of approximately equal value.

It does not resolve the issue of wilderness designation. Some parties desire wilderness protection for the area. Other parties, including Meridian, oppose wilderness designation, and the USFS has not indicated any intent to establish a wilderness. The legislation would not increase, or decrease, the prospect for wilderness designation since wilderness may be designated whether the mineral rights are privately or publicly owned, the designation can only be accomplished by a separate Act of Congress, and the legislation's "multiple use" language makes clear the intent of Congress that the exchange is not intended to affect the wilderness issue.

DAKOTAS RESOURCE ADVISORY COUNCIL,
Dickinson, ND, September 12, 1996.

Hon. ED SCHAFER,
Governor of North Dakota, State Capitol, Bismarck, ND.

DEAR GOVERNOR SCHAFER: The Dakota Resource Advisory Council (RAC), a 12-member body appointed by the Secretary of the Interior, represents users of public lands in North and South Dakota. The RAC provides opportunities for meaningful public participation in land management decisions at the district level and encourages conflict resolution among various interest groups.

At our meeting in Dickinson, North Dakota on September 9, 1996, the RAC reviewed and discussed the Meridian Mineral Exchange that you have been considering. After careful review by our RAC, a resolution was

passed indicating our support for legislative to allow the Meridian Mineral Exchange to be completed by the Bureau of Land Management.

Since there is considerable activity in this area, there is a definite urgency to move this legislation in the remaining of this Congress. The Dakota RAC respectfully requests the introduction and passage of legislation of the Meridian Mineral Exchange.

If we can be of further assistance to your efforts in this regard, we are most willing to help. District Manager, Doug Burger, has more details with respect to the exchange and we have asked him to assist you.

Thank you for considering the recommendations of the Dakota RAC.

Sincerely,

MARC TRIMMER,
Chair, Dakota RAC.

MEMORANDUM OF UNDERSTANDING

The Memorandum of Understanding (MOU) is between Meridian Oil Inc. (Meridian) with offices in Englewood, Colorado and the U.S. Forest Service, Custer National Forest (Forest Service).

The intent of the MOU is to set forth agreement regarding development of certain oil and gas interests beneath Federal surface. This MOU is in addition to, and does not abrogate, any rights the United States otherwise has to regulate activities on the Federal surface estate or any rights Meridian otherwise has to develop the oil and gas interest conveyed.

The provisions of this MOU shall apply to the successors and assigns of Meridian.

The MOU may be amended by written agreement of the parties.

Section A. View Corridor—Little Missouri River. Includes the following land (Subject Lands) in Township 137N., Range 102W.:

Section 3: Lots 6, 7, 9–12, 14–17 (+) River Bottom 54.7 acres

Section 10: Lots 1–4, N½, N½SE¼, SE¼SE¼ (+) River Bottoms 7.3 acres

Section 14: Lots 1, 2, 3, 6, 7, NW¼NE¼, NW¼SW¼, S½S½ (+) River Bottom 41.4 acres

Section 24: Lots 1–9, NE¼, S½NW¼, NE¼NW¼ (+) River Bottom 75.84 acres

1. The purpose of this Section is to set forth the agreements that Meridian and the Forest Service have made concerning reasonable protection of the view from the Little Missouri River which has been identified as potentially suitable for classification as a Wild and Scenic River under the Wild and Scenic Rivers Act. This section of the MOU shall remain in effect as long as the Forest Service maintains a corridor for this purpose.

2. The Forest Service has designated a ¼ mile corridor on either side of the River for protection of the view from the River, and this Section applies to the location permanent improvements within said corridor and not to temporary activities such as seismic operations within said corridor.

3. Meridian agrees to use its best efforts to locate permanent production facilities, well sites, roads and other installations outside the ¼ mile corridor on the Subject Lands. However, such facilities may be located within the ¼ mile corridor if mutually agreed to by the parties in writing.

4. The Forest Service agrees that Meridian may access its minerals within or without the ¼ mile corridor of the subject lands from a well or wells whose surface location is on adjoining lands in which Meridian owns the severed mineral estate.

Section B. Development of T. 138N., R 102W., Section 12: S½

1. The purpose of this section is to set forth the agreement that Meridian and the Forest Service have made concerning the option to develop the mineral resources in the S½ Section 12 from specified locations in Section 13, T. 138N., R. 102W.

2. If, at any time, Meridian, at its sole discretion, decides that the development potential of the S½ Section 12 justifies additional directional drilling the following options are hereby made available to them by the Forest Service:

A. Directional drilling from an expanded pad on the Duncan MP#1 location is Section 13, T. 138N., R. 102W. or

B. Directional drilling from a location in Section 13 adjacent to the county road and screened from the bighorn sheep lambing area located in Section 12.

If Meridian elects to develop the S½ Section 12 from one of the specified locations in Section 13, surface disturbing activities related to development and production will only be allowed from June 16 through October 14, annually.

3. This section of the MOU shall remain in effect as long as the S½ of Section 12 is subject to the present, or a future, oil and gas lease.

STEVEN L. REINERT,
Attorney-in-Fact, Meridian Oil, Inc.
NANCY CURRIDEN,
Forest Supervisor, Custer National Forest.

DACOTAH CHAPTER OF THE SIERRA CLUB,
Mandan, ND, September 14, 1995.

Re Meridian mineral exchange.

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

DEAR SENATOR DORGAN: I am writing to convey the Sierra Club's support for the "agreement in principle" for a mineral exchange between Meridian Oil Inc. (MOI) and the Bureau of Land Management (BLM)/United States Forest Service (USFS). This agreement follows extensive negotiations between MOI, USFS, BLM, the North Dakota Game and Fish Department (NDGF) and local conservation organizations.

It is my understanding that their are two components to the agreement. Part One involves the actual exchange of the mineral estate. Part Two outlines a Memorandum of Understanding (MOU) between the USFS and MOI to protect the viewshed of the Little Missouri State Scenic River while still allowing MOI to access their minerals. The MOU also addresses a plan to directionally drill an oil well to protect a bighorn sheep lambing area.

I have contacted the enclosed list of conservation organizations and they have also stated their support for Parts One and Two of the agreement as proposed. I join them in urging you to introduction enabling legislation at the earliest opportunity. Your efforts throughout this process have been very much appreciated. Please contact me if there is anything conservationists can do to facilitate this mineral exchange.

Sincerely,

WAYDE SCHAFER.

CONSERVATION ORGANIZATIONS IN SUPPORT OF THE MINERAL EXCHANGE

Dacotah Chapter of the Sierra Club, National Wildlife Federation, National Audubon Society, Clean Water Action, North Dakota Chapter of the Wildlife Society, Bismarck Mandan Bird Club, Lewis and Clark Wildlife Club.

Mr. CONRAD. Mr. President, I rise today to join with my colleague from North Dakota, Senator DORGAN, to introduce legislation that would implement an exchange of subsurface mineral rights between the U.S. Forest Service and Burlington Resources in the Little Missouri National Grasslands.

Mr. President, this exchange and consolidation of mineral rights makes sense. The current pattern of ownership resembles a checkerboard, and this consolidation will help protect sensitive lands in the North Dakota Badlands and also facilitate additional oil and gas exploration in other areas of the grasslands. The legislation being introduced today would transfer Burlington's subsurface mineral rights of 9,582 acres to the Forest Service, and transfer 8,796 acres of Forest Service subsurface mineral rights to Burlington Resources. The parties have agreed that the value of the mineral rights being exchanged are of equal value. The legislation would also authorize the exchange of other private mineral rights for federal mineral rights within 6 months of enactment. Finally, this bill contains a very important provision that assures that nothing in the legislation can be interpreted to limit, restrict, or otherwise affect the application of the principle of multiple use.

It is also important to acknowledge what this legislation does not do. This legislation does not increase the surface area controlled by the Forest Service. This bill only deals with subsurface mineral rights. This bill does not decrease revenue to the county, State, or Federal government, nor does it provide Burlington Resources with mineral rights of greater value than they currently hold. Finally, this legislation is silent on the issue of wilderness designation.

Mr. President, I believe this is a good, balanced piece of legislation that deserves the support of every Member of the Senate.

By Mr. KYL (for himself, Mrs. FEINSTEIN and Mr. EXON):

S.J. Res. 65. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

THE VICTIMS' RIGHTS CONSTITUTIONAL AMENDMENT

Mr. KYL. Mr. President, to ensure that crime victims are treated with fairness, dignity, and respect, I rise—along with Senator FEINSTEIN—to introduce a joint resolution proposing a constitutional amendment to establish and protect the rights of crime victims.

This joint resolution is the product of extended discussions with Senators HATCH and BIDEN, the Department of

Justice, the White House, law enforcement, major victims' rights groups, and such diverse scholars as Professors Larry Tribe and Paul Cassell.

This latest joint resolution is still a work in progress; Senator FEINSTEIN and I anticipate modifications. We are introducing this new version to show the changes that have been made and to make clear that Senate Joint Resolution 52—which was introduced on April 22—has been superseded. We welcome suggestions on ways to improve the amendment and ask that comments refer to this new joint resolution.

Three principal issues remain unresolved. First, whether there should be an effective remedy when crime victims are denied rights regarding sentences or pleas. Second, whether to include non-violent crimes—other crimes—and if these crimes are included, whether they should be defined by Congress or by Congress and the states. Third, whether to have a right to a final disposition free from unreasonable delay or whether to limit this right to trial proceedings.

The introduced version—and the most recent version—contain the core principles that crime victims should have:

To be informed of the proceedings.

To be heard at certain crucial stages in the process.

To be notified of the offender's release or escape.

To proceedings free from unreasonable delay.

To an order of restitution.

To have the safety of the victim considered in determining a release from custody.

To be notified of these rights.

The language describing these rights has changed—and we continue to welcome suggestions. But it is clear that these rights are necessary. They are the core of the amendment.

In putting together a constitutional amendment, a broad consensus has to be reached to obtain two-thirds approval in the House and Senate and to ensure ratification by three-fourths of the States. In making changes, Senator FEINSTEIN and I have tried to accommodate the concerns of those who work in the criminal justice system—including judges, prosecutors, police officers, corrections officials, and defense attorneys—while at the same time protecting fundamental rights for crime victims.

Senator FEINSTEIN and I will continue to work intensively with these groups, law professors, and other Members of Congress from both parties and both Houses over the ensuing months to craft the best amendment possible. We then intend to introduce the finished revised amendment at the beginning of the next Congress. We believe that we now are close to a version that can be voted on by the House and Senate. We welcome comments and input as we move forward.

In closing, I would like to thank Senator DIANNE FEINSTEIN for her hard work on this amendment and for her tireless efforts on behalf of crime victims.

Mr. President, for far too long, the criminal justice system has ignored crime victims who deserve to be treated with fairness, dignity, and respect. Our criminal justice system will never be truly just as long as criminals have rights and victims have none. We need a new definition of justice—one that includes the victim.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 65

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid for all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

Section 1. Victims of crimes of violence and other crimes that Congress and the States may define by law pursuant to section 3, shall have the rights to notice of and not to be excluded from all public proceedings relating to the crime; to be heard if present and to submit a statement at a public pretrial or trial proceeding to determine a release from custody, an acceptance of a negotiated plea, or a sentence; to these rights at a parole proceeding to the extent they are afforded to the convicted offender; to notice of a release pursuant to a public or parole proceeding or an escape; to a final disposition free from unreasonable delay; to an order of restitution from the convicted offender; to have the safety of the victim considered in determining a release from custody; and to notice of the rights established by this article.

Section 2. The victim shall have standing to assert the rights established by this article; however, nothing in this article shall provide grounds for the victim to challenge a charging decision or a conviction, obtain a stay of trial, or compel a new trial; nor shall anything in this article give rise to a claim of damages against the United States, a State, a political subdivision, or a public official; nor shall anything in this article provide grounds for the accused or convicted offender to obtain any form of relief.

Section 3. The Congress and the States shall have the power to enforce this article within their respective federal and state jurisdictions by appropriate legislation, including the power to enact exceptions when required for compelling reasons of public safety.

Section 4. The rights established by this article shall be applicable to all proceedings occurring after ratification of this article.

Section 5. The rights established by this article shall apply in all federal, state, military, and juvenile justice proceedings, and shall also apply to victims in the District of Columbia, and any commonwealth, territory, or possession of the United States.

Mrs. FEINSTEIN. Mr. President, I rise today along with my distinguished colleague from Arizona, Senator JON KYL, to introduce a revised and substantially improved version of the victims' rights amendment to the U.S. Constitution.

Since Senator KYL and I originally introduced a victims' rights amendment in April, we have been working very diligently and intensively with the Department of Justice, law enforcement, the White House, major victims' rights groups, Senate Judiciary Committee Chairman HATCH and Ranking Member BIDEN, House Judiciary Committee Chairman HYDE, and a variety of distinguished scholars in the field of law enforcement, to more finely craft this amendment and resolve various concerns with its initial language. We have gone through 41 different drafts of the amendment, so far, as the language has evolved, culminating in the resolution that we are introducing today.

We are introducing this most recent version so that interested people have an up to date draft to evaluate. Many of the people who have commented on the victims' rights amendment were commenting on an out of date draft, leading to erroneous and false conclusions by some, including legal scholars.

What really focused my attention on the need for greater protection of victims' rights was a particularly horrifying case, in 1974, in San Francisco, when a man named Angelo Pavageau broke into the house of the Carlson family in Portero Hill. Pavageau tied Mr. Carlson to a chair, bludgeoning him to death with a hammer, a chopping block, and a ceramic vase. He then repeatedly raped Carlson's 24-year old wife, breaking several of her bones, He slit her wrist, tried to strangle her with a telephone cord, and then, before fleeing, set the Carlson's home on fire—cowardly retreating into the night, leaving this family to burn up in flames.

But Mrs. Carlson survived the fire. She courageously lived to testify against her attacker. But she has been forced to change her name and continues to live in fear that her attacker may, one day, be released. When I was mayor of San Francisco, she called me several times to notify me that Pavageau was up for parole. Amazingly, it was up to Mrs. Carlson to find out when his parole hearings were.

Mr. President, I believe this case represents a travesty of justice—It just shouldn't have to be that way. I believe it should be the responsibility of the State to send a letter through the mail or make a phone call to let a victim know that her attacker is up for parole, and she should have the opportunity to testify at that hearing.

But today, in most States in this great Nation, victims still are not made aware of the accused's trial,

many times are not allowed in the courtroom during the trial, and are not notified when convicted offender is released from prison.

I have vowed to do everything in my power to add a bit of balance to our Nation's justice system. This is why Senator KYL and I have crafted the victim's rights amendment before us today.

The people of California were the first in the Nation to pass a crime victims' amendment to the State constitution in 1982—the initiative proposition 8—and I supported its passage. This measure gave victims the right to restitution, the right to testify at sentencing, probation and parole hearings established a right to safe and secure public school campuses, and made various changes in criminal law. California's proposition 8 represented a good start to ensure victims' rights.

Since the passage of proposition 8, 20 more States have passed constitutional amendments guaranteeing the rights of crime victims—and five others are expected to pass by the end of this year. In each case, these amendments have won with the overwhelming approval of the voters.

But citizens in other States lack these basic rights. The 20 different State constitutional amendments differ from each other, representing a patchwork quilt of rights that vary from State to State. And even in those States which have State amendments, criminals can assert rights grounded in the Federal constitution to try to trump those rights.

I stand before you today to appeal to my colleagues in this body—the highest legislative institution in the land—that the time is now to amend the U.S. Constitution in order to protect the rights of victims of serious crimes.

The U.S. Constitution guarantees numerous rights to the accused in our society, all of which were established by amendment to the Constitution. I steadfastly believe that this Nation must attempt to guarantee, at the very least, some basic rights to the millions victimized by crime each year.

For those accused of crimes in this country, the Constitution specifically protects: The right to a grand jury indictment for capital or infamous crimes; the prohibition against double jeopardy; the right to due process; the right to a speedy trial and the right to an impartial jury of one's peers; the right to be informed of the nature and cause of the criminal accusation; the right to confront witnesses; the right to counsel; the right to subpoena witnesses—and so on.

I must say to my colleagues that I find it truly astonishing that no where in the text of the U.S. Constitution does there appear any guarantee of rights for crime victims.

To rectify this disparity, Senator KYL and I introduced the victims' rights amendment in April. That amendment, like the one we introduced today, provides for certain basic rights for victims of crime: The right to be notified of public proceedings in their case; The right to be heard at any proceeding involving a release from custody or sentencing; The right to be informed of the offender's release or escape; The right to restitution from the convicted offender; and the right to be made of all of your rights as a victim.

Personally, I can say that the process of forging a constitutional amendment for victims' rights has been truly fascinating. The Constitution our forefathers scribed 200 years ago is a remarkable document that has withstood the test of time. Earlier this year, Senator KYL and I embarked on a journey to include an amendment to this magnificent document that would ensure that the rights of the roughly 43 million people victimized by crime each year will be protected.

Our ongoing effort to include a victims' rights amendment in the Constitution has been at times frustrating, while at other times exhilarating. Each sentence, each word, and each comma has undergone hours of deliberation and questioning.

Having said that, I must tell this body and share with my colleagues that this latest resolution is still a work in progress—let me be perfectly clear, we anticipate modifications. Three principal issues remain unresolved:

First, whether there should be an effective remedy when crime victims are denied rights regarding sentences or pleas.

Second, whether to include nonviolent crimes ("other crimes"), and if these crimes are included, whether they should be defined by Congress or by Congress and the States.

Third, whether to have a right to a "final disposition free from unreasonable delay", whether to limit this right to trial proceedings, or whether to exclude this altogether.

Mr. President, Senator KYL and I believe that the latest resolution before us is much better than the version than was previously introduced for a number of reasons. The language describing these rights has changed—and we continue to welcome suggestions to ensure that this amendment pass with the largest majority.

Unfortunately, there was precious little time to advance the amendment in this Congress, and once it became clear that the other Chamber would not proceed with the amendment this session, Senators KYL and BIDEN and I decided not to press for Senate action in the last few weeks of the Congress, but, rather, to spend the next few months continuing to work to fine tune the amendment and build a consensus for its passage.

We implore Members of this body to examine this amendment, and to help to secure passage of this monumental piece of legislation. After 200 years, doesn't this Nation owe something to the millions of victims of crime? I believe that is our obligation and should be our highest priority—not only for the crime victims, but, for all Americans—to ensure passage of a victims' rights constitutional amendment.

I want to personally than Senator KYL for his tireless efforts to accomplish this amendment, and to say that I look forward to continuing to work with him in the months to come.

I thank my colleagues and I yield the floor.

ADDITIONAL COSPONSORS

S. 553

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 553, a bill to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers, and for other purposes.

S. 1233

At the request of Ms. MIKULSKI, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1233, a bill to assure equitable coverage and treatment of emergency services under health plans.

S. 1385

At the request of Mr. BREAUX, the names of the Senator from Virginia [Mr. ROBB], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1385, a bill to amend title XVIII of the Social Security Act to provide for coverage of periodic colorectal screening services under Part B of the medicare program.

S. 1726

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1726, a bill to promote electronic commerce by facilitating the use of strong encryption, and for other purposes.

S. 1862

At the request of Mr. PRESSLER, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 1862, a bill to permit the interstate distribution of State-inspected meat under appropriate circumstances.

S. 1911

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1911, a bill to amend the Internal Revenue Code of 1986 to encourage economic development through the creation of additional empowerment zones and enterprise communities and to encourage the cleanup of contaminated brownfield sites.

S. 1949

At the request of Mr. PRESSLER, his name was added as a cosponsor of S.

1949, a bill to ensure the continued viability of livestock producers and the livestock industry in the United States.

S. 1951

At the request of Mr. FORD, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1951, a bill to ensure the competitiveness of the United States textile and apparel industry.

S. 1965

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1965, a bill to prevent the illegal manufacturing and use of methamphetamine.

S. 2030

At the request of Mr. LOTT, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor 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. 2086

At the request of Mr. PRESSLER, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2086, a bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States business operating abroad, and for other purposes.

S. 2091

At the request of Mr. PRESSLER, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 2091, a bill to provide for small business and agriculture regulatory relief.

S. 2141

At the request of Mr. HATFIELD, his name was added as a cosponsor of 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.

S. 2143

At the request of Mr. WARNER, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 2143, a bill to authorize funds for construction of highways, and for other purposes.

SENATE RESOLUTION 306—RELATIVE TO THE PEOPLE OF OKINAWA

Mr. ROTH (for himself, Mr. THOMAS, and Mr. NUNN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 306

Whereas the Senate finds that the Treaty of Mutual Cooperation and Security Between the United States of America and Japan is critical to the security interests of the United States, Japan and the nations of the Asian Pacific region;

Whereas the bilateral security relationship is the foundation for U.S. security strategy in Asia and the Pacific;

Whereas strong bilateral security ties provide a key stabilizing influence in an uncertain post-Cold War world;

Whereas the bilateral security relationship makes it possible for the United States to preserve its interest in the Asia Pacific region;

Whereas U.S. forward-deployed forces are welcomed by our allies in the region because they are critical for maintaining stability in East Asia;

Whereas the recognition by our allies of the importance of American troops for regional security confers on the United States irreplaceable good will and diplomatic influence in the Asia Pacific;

Whereas Japan's host nation support is a key element in the U.S. ability to maintain forward-deployed forces;

Whereas the people of Okinawa have borne a disproportionate share of the burdens of Japan's host nation support for America's bases in Japan;

Whereas the Government's of the United States and Japan have made a commitment to reducing the burdens of U.S. forces of the people of Okinawa;

Whereas gaining the support of the people of Okinawa in this process is crucial to effective implementation of the Treaty: Now, therefore, it is the sense of the Senate that:

(1) the Treaty of Mutual Cooperation and Security Between the United States of America and Japan remains vital to American and Japanese security interests as well as the security interests of the nations of the Asia-Pacific region; and

(2) the people of Okinawa deserve special recognition and gratitude for their contributions toward ensuring the Treaty's implementation.

Mr. ROTH. Mr. President, I rise today on behalf of myself and Senators THOMAS and NUNN to submit a sense of the Senate Resolution expressing our gratitude to the Okinawan people for their contributions toward ensuring the viability of Treaty of Mutual Cooperation and Security between the United States of America and Japan.

Mr. President, that treaty forms the core of our bilateral security arrangements with Japan and of our overall security strategy for the Asia-Pacific region. Those arrangements have helped provide the peace and stability that have undergirded the region's economic success—from which the United States has benefited directly.

Japan provides our forces based in that country with significant host nation support. And no one in Japan shoulders a more disproportionate share of that burden than the people of Okinawa. For their many contributions to the U.S.-Japan relationship and the peace and stability of all of the Asia-Pacific region, the Okinawan people justly deserve our recognition and our sincerest thanks. That is precisely what this resolution does. But it also goes further: The resolution makes it clear that the continued support of the Okinawan people is crucial if we are to maintain a bilateral relationship that serves both our countries' interests, as well as those of the Asia-Pacific and the entire world.

Mr. President, I know time is short in this Congress, but I urge all my colleagues to join me in making passage of this resolution possible before we adjourn.

AMENDMENTS SUBMITTED

THE PROVISIONS OF CHAPTER 76 RESTORATION AMENDMENT ACT OF 1996

McCAIN AMENDMENT NO. 5420

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill (H.R. 4000) 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 the amendments made by the National Defense Authorization Act for fiscal year 1997; as follows:

At the end, add the following:

TITLE II—DEPOT-LEVEL ACTIVITIES

SEC. 201. DEPARTMENT OF DEFENSE PERFORMANCE OF CORE LOGISTICS FUNCTIONS.

Section 2464(a) of title 10, United States Code is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The Secretary of Defense shall maintain within the Department of Defense those logistics activities and capabilities that are necessary to provide the logistics capability described in paragraph (1). The logistics activities and capabilities maintained under this paragraph shall include all personnel, equipment, and facilities that are necessary to maintain and repair the weapon systems and other military equipment identified under paragraph (3).

"(3) The Secretary of Defense, in consultation with the Joint Chiefs of Staff, shall identify the weapon systems and other military equipment that it is necessary to maintain and repair within the Department of Defense in order to maintain within the department the capability described in paragraph (1).

"(4) The Secretary shall require that the core logistics functions identified pursuant to paragraph (3) be performed in Government-owned, Government-operated facilities of the Department of Defense by Department of Defense personnel using Department of Defense equipment.".

SEC. 202. INCREASE IN PERCENTAGE LIMITATION ON CONTRACTOR PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOADS.

(a) FIFTY PERCENT LIMITATION.—Section 2466(a) of title 10, United States Code, is amended by striking out "40 percent" in the first sentence and inserting in lieu thereof "50 percent".

(b) INCREASE DELAYED PENDING RECEIPT OF STRATEGIC PLAN FOR THE PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR.—(1) Notwithstanding the first sentence of section 2466(a) of title 10, United States Code (as amended by subsection (a)), until the strategic plan for the performance of depot-level maintenance and repair is submitted under section 205, not more than 40 percent of the funds made available in a fiscal year to a military department or a Defense Agency for

depot-level maintenance and repair workload may be used to contract for the performance by non-Federal Government personnel of such workload for the military department or the Defense Agency.

(2) In paragraph (1), the term "depot-level maintenance and repair workload" has the meaning given such term in section 2466(f) of title 10, United States Code.

SEC. 203. REPORT ON DEPOT-LEVEL MAINTENANCE AND REPAIR.

Subsection (e) of section 2466 of title 10, United States Code, is amended to read as follows:

"(e) REPORT.—(1) Not later than February 1 of each year, the Secretary of Defense shall submit to Congress a report identifying, for each military department and Defense Agency—

"(A) the percentage of the funds referred to in subsection (a) that were used during the preceding fiscal year for performance of depot-level maintenance and repair workloads by Federal Government personnel; and

"(B) the percentage of the funds referred to in subsection (a) that were used during the preceding fiscal year to contract for the performance of depot-level maintenance and repair workloads by non-Federal Government personnel.

"(2) Not later than 90 days after the date on which the Secretary submits the annual report under paragraph (1), the Comptroller General shall submit to the Committees on Armed Services and on Appropriations of the Senate and the Committees on National Security and on Appropriations of the House of Representatives the Comptroller's views on whether the Department of Defense has complied with the requirements of subsection (a) for the fiscal year covered by the report.".

SEC. 204. DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOAD DEFINED.

Section 2466 of title 10, United States Code, is amended by adding at the end the following:

"(f) DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOAD DEFINED.—In this section, the term 'depot-level maintenance and repair workload'—

"(1) means material maintenance requiring major overhaul or complete rebuilding of parts, assemblies, or subassemblies, and testing and reclamation of equipment as necessary, including all aspects of software maintenance;

"(2) includes those portions of interim contractor support, contractor logistics support, or any similar contractor support for the performance of services described in paragraph (1); and

"(3) does not include ship modernization and other repair activities that—

"(A) are funded out of appropriations available to the Department of Defense for procurement; and

"(B) were not considered to be depot-level maintenance and repair workload activities under regulations of the Department of Defense in effect on February 10, 1996.".

SEC. 205. STRATEGIC PLAN RELATING TO DEPOT-LEVEL MAINTENANCE AND REPAIR.

(a) STRATEGIC PLAN REQUIRED.—(1) As soon as possible after the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a strategic plan for the performance of depot-level maintenance and repair.

(2) The strategic plan shall cover the performance of depot-level maintenance and repair for the Department of Defense in fiscal years 1998 through 2007. The plan shall provide for maintaining the capability described in section 2464 of title 10, United States Code.

(b) ADDITIONAL MATTERS COVERED.—The Secretary of Defense shall include in the strategic plan submitted under subsection (a) a detailed discussion of the following matters:

(1) For each military department, as determined after consultation with the Secretary of that military department and the Chairman of the Joint Chiefs of Staff, the depot-level maintenance and repair activities and workloads that are necessary to perform within the Department of Defense in order to maintain the core logistics capability required by section 2464 of title 10, United States Code.

(2) For each military department, as determined after consultation with the Secretary of that military department and the Chairman of the Joint Chiefs of Staff, the depot-level maintenance and repair activities and workloads that the Secretary of Defense plans to perform within the Department of Defense in order to satisfy the requirements of section 2466 of title 10, United States Code.

(3) For the activities identified pursuant to paragraphs (1) and (2), a discussion of which specific existing weapon systems or other existing equipment, and which specific planned weapon systems or other planned equipment, are weapon systems or equipment for which it is necessary to maintain a core depot-level maintenance and repair capability within the Department of Defense.

(4) The core capabilities, including sufficient skilled personnel, equipment, and facilities, that—

(A) are of sufficient size—

(i) to ensure a ready and controlled source of the technical competencies, and the maintenance and repair capabilities, that are necessary to meet the requirements of the national military strategy and other requirements for responding to mobilizations and military contingencies; and

(ii) to provide for rapid augmentation in time of emergency; and

(B) are assigned a sufficient workload to ensure cost efficiency and technical proficiency in peacetime.

(5) The environmental liability issues associated with any projected privatization of the performance of depot-level maintenance and repair, together with detailed projections of the cost to the United States of satisfying environmental liabilities associated with such privatized performance.

(6) Any significant issues and risks concerning exchange of technical data on depot-level maintenance and repair between the Federal Government and the private sector.

(7) Any deficiencies in Department of Defense financial systems that hinder effective evaluation of competitions (whether among private-sector sources or among depot-level activities owned and operated by the Department of Defense and private-sector sources), and merit-based selections (among depot-level activities owned and operated by the Department of Defense), for a depot-level maintenance and repair workload, together with plans to correct such deficiencies.

(9) The type of facility (whether a private sector facility or a Government owned and operated facility) in which depot-level maintenance and repair of any new weapon systems that will reach full scale development is to be performed.

(10) The workloads necessary to maintain Government owned and operated depots at 50 percent, 70 percent, and 85 percent of operating capacity.

(11) A plan for improving the productivity of the Government owned and operated depot maintenance and repair facilities, together with management plans for changing administrative and missions processes to achieve productivity gains, a discussion of any barriers to achieving desired productivity gains at the depots, and any necessary changes in civilian personnel policies that are necessary to improve productivity.

(12) The criteria used to make decisions on whether to convert to contractor performance of depot-level maintenance and repair, the officials responsible for making the decision to convert, and any depot-level maintenance and repair workloads that are proposed to be converted to contractor performance before the end of fiscal year 2001.

(13) A detailed analysis of savings proposed to be achieved by contracting for the performance of depot-level maintenance and repair workload by private sector sources, together with the report on the review of the analysis (and the assumptions underlying the analysis) provided for under subsection (c).

(c) INDEPENDENT REVIEW OF SAVINGS ANALYSIS.—The Secretary shall provide for a public accounting firm (independent of Department of Defense influence) to review the analysis referred to in subsection (b)(13) and the assumptions underlying the analysis for submission to the committees referred to in subsection (a) and to the Comptroller General.

(d) REVIEW BY COMPTROLLER GENERAL.—(1) At the same time that the Secretary of Defense transmits the strategic plan under subsection (a), the Secretary shall transmit a copy of the plan (including the report of the public accounting firm provided for under subsection (c)) to the Comptroller General of the United States and make available to the Comptroller General all information used by the Department of Defense in preparing the plan and analysis.

(2) Not later than 60 days after the date on which the Secretary submits the strategic plan required by subsection (a), the Comptroller General shall transmit to Congress a report containing a detailed analysis of the strategic plan.

(e) ADDITIONAL REPORTING REQUIREMENT FOR COMPTROLLER GENERAL.—Not later than February 1, 1997, the Comptroller General shall submit to the committees referred to in subsection (a) a report on the effectiveness of the oversight by the Department of Defense of the management of existing contracts with private sector sources of depot-level maintenance and repair of weapon systems, the adequacy of Department of Defense financial and information systems to support effective decisions to contract for private sector performance of depot-level maintenance and repair workloads that are being or have been performed by Government personnel, the status of reengineering efforts at depots owned and operated by the United States, and any overall management weaknesses within the Department of Defense that would hinder effective use of contracting for the performance of depot-level maintenance and repair.

SEC. 206. ANNUAL REPORT ON COMPETITIVE PROCEDURES.

(a) ANNUAL REPORT.—Section 2469 of title 10, United States Code, is amended by adding at the end the following:

"(d) ANNUAL REPORT.—Not later than March 31 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of

Representatives a report describing the competitive procedures used during the preceding fiscal year for competitions referred to in subsection (a).".

(b) FIRST REPORT.—The first report under subsection (d) of section 2469 of title 10, United States Code (as added by subsection (a)), shall be submitted not later than March 31, 1997.

SEC. 207. ANNUAL RISK ASSESSMENTS REGARDING PRIVATE PERFORMANCE OF DEPOT-LEVEL MAINTENANCE WORK.

(a) REPORTS.—Chapter 146 of title 10, United States Code, is amended by adding at the end the following:

"§ 2473. Reports on privatization of depot-level maintenance work

"(a) ANNUAL RISK ASSESSMENTS.—(1) Not later than January 1 of each year, the Joint Chiefs of Staff shall submit to the Secretary of Defense a report on the privatization of the performance of the various depot-level maintenance workloads of the Department of Defense.

"(2) The report shall include with respect to each depot-level maintenance workload the following:

"(A) An assessment of the risk to the readiness, sustainability, and technology of the Armed Forces in a full range of anticipated scenarios for peacetime and for wartime of—

"(i) using public entities to perform the workload;

"(ii) using private entities to perform the workload; and

"(iii) using a combination of public entities and private entities to perform the workload.

"(B) The recommendation of the Joint Chiefs as to whether public entities, private entities, or a combination of public entities and private entities could perform the workload without jeopardizing military readiness.

"(3) Not later than 30 days after receiving the report under paragraph (2)(B), the Secretary shall transmit the report to Congress. If the Secretary does not concur in the recommendation made by the Joint Chiefs pursuant to paragraph (2)(B), the Secretary shall include in the report under this paragraph—

"(A) the recommendation of the Secretary; and

"(B) a justification for the differences between the recommendation of the Joint Chiefs and the recommendation of the Secretary.

"(b) ANNUAL REPORT ON PROPOSED PRIVATIZATION.—(1) Not later than February 28 of each year, the Joint Chiefs of Staff shall submit to the Secretary of Defense a report on each depot-level maintenance workload of the Department of Defense that the Joint Chiefs believe could be converted to performance by private entities during the next fiscal year without jeopardizing military readiness.

"(2) Not later than 30 days after receiving a report under paragraph (1), the Secretary shall transmit the report to Congress. If the Secretary does not concur in the proposal of the Joint Chiefs in the report, the Secretary shall include in the report under this paragraph—

"(A) each depot-level maintenance workload of the Department that the Secretary proposes to be performed by private entities during the fiscal year concerned; and

"(B) a justification for the differences between the proposal of the Joint Chiefs and the proposal of the Secretary.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2473. Reports on privatization of depot-level maintenance work.".

SEC. 208. EXTENSION OF AUTHORITY FOR NAVAL SHIPYARDS AND AVIATION DEPOTS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.

(a) EXTENSION OF AUTHORITY.—Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) is amended by striking out "expires on September 30, 1995" and inserting in lieu thereof "may not be exercised after September 30, 1997".

(b) REVIVAL OF EXPIRED AUTHORITY.—The authority provided in section 1425 of the National Defense Authorization Act for Fiscal Year 1991 may be exercised after September 30, 1995, subject to the limitation in subsection (e) of such section as amended by subsection (a) of this section.

SEC. 209. LIMITATION ON USE OF FUNDS FOR F-18 AIRCRAFT DEPOT MAINTENANCE.

Of the amounts authorized to be appropriated by section 301(2) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201), not more than $5,000,000 may be used for the performance of depot maintenance on F–18 aircraft until 30 days after the date on which the Secretary of Defense submits to the congressional defense committees a report on aviation depot maintenance. The report shall contain the following:

(1) The results of a competition which the Secretary shall conduct between all Department of Defense aviation depots for selection for the performance of depot maintenance on F–18 aircraft.

(2) An analysis of the total cost of transferring the F–18 aircraft depot maintenance workload to an aviation depot not performing such workload as of the date of the enactment of this Act.

SEC. 210. DEPOT MAINTENANCE AND REPAIR AT FACILITIES CLOSED BY BRAC.

The Secretary may not contract for the performance by a private sector source of any of the depot maintenance workload performed as of the date of the enactment of this Act at Sacramento Air Logistics Center or the San Antonio Air Logistics Center until the Secretary—

(1) publishes criteria for the evaluation of bids and proposals to perform such workload;

(2) conducts a competition for the workload between public and private entities;

(3) pursuant to the competition, determines in accordance with the criteria published under paragraph (1) that an offer submitted by a private sector source to perform the workload is the best value for the United States; and

(4) submits to Congress the following—

(A) a detailed comparison of the cost of the performance of the workload by civilian employees of the Department of Defense with the cost of the performance of the workload by that source; and

(B) an analysis which demonstrates that the performance of the workload by that source will provide the best value for the United States over the life of the contract.

THE ALTERNATIVE MEANS OF DISPUTE RESOLUTION ACT OF 1996

COHEN AMENDMENT NO. 5421

Mr. GRASSLEY (for Mr. COHEN) proposed an amendment to the bill (H.R. 4194) to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes; as follows:

At the end of the bill insert the following:

SEC. 12. JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS AND THE DISTRICT COURTS OF THE UNITED STATES: BID PROTESTS.

(a) BID PROTESTS.—Section 1491 of Title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) in subsection (a) by striking out paragraph (3); and

(3) by inserting after subsection (a), the following new subsection:

"(b) (1) Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract or any alleged violation of statute or regulation in connection with a procurement or a proposed procurement. Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

"(2) To afford relief in such an action, the courts may award any relief that the court considers proper, including declaratory and injunctive relief except that any monetary relief shall be limited to bid preparation and proposal costs.

"(3) In exercising jurisdiction under this subsection, the courts shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

"(4) In any action under this subsection, the courts shall review the agency's decision pursuant to the standards set forth in section 706 of title 5."

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on December 31, 1996 and shall apply to all actions filed on or after that date.

(c) STUDY.—No earlier than 2 years after the effective date of this section, the United States General Accounting Office shall undertake a study regarding the concurrent jurisdiction of the district courts of the United States and the Court of Federal Claims over bid protests to determine whether concurrent jurisdiction is necessary. Such a study shall be completed no later than December 31, 1999, and shall specifically consider the effect of any proposed change on the ability of small businesses to challenge violations of federal procurement law.

(d) SUNSET.—The jurisdiction of the district courts of the United States over the actions described in section 1491(b)(1) of title 28, United States Code, (as amended by subsection (a) of this section) shall terminate on January 1, 2001 unless extended by Congress. The savings provisions in subsection (e) shall apply if the bid protest jurisdiction of the district courts of the United States terminates under this subsection.

(e) SAVINGS PROVISIONS.—

(1) ORDERS.—A termination under subsection (d) shall not terminate the effectiveness of orders that have been issued by a court in connection with an action within the jurisdiction of that court on or before December 31, 2000. Such orders shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

(2) PROCEEDINGS AND APPLICATIONS.—(A) A termination under subsection (d) shall not affect the jurisdiction of a court of the United States to continue with any proceeding that is pending before the court on December 31, 2000.

(B) Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if such termination had not occurred. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

(C) Nothing in this paragraph prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that proceeding could have been discontinued or modified absent such termination.

(f) NONEXCLUSIVITY OF GAO REMEDIES.—In the event that the bid protest jurisdiction of the district courts of the United States is terminated pursuant to subsection (d), then section 3556 of title 31, United States Code, shall be amended by striking "a court of the United States or" in the first sentence.

THE PROVISIONS OF CHAPTER 76 RESTORATION AMENDMENT ACT OF 1996

McCAIN AMENDMENTS NOS. 5422–5423

(Ordered to lie on the table)

Mr. McCAIN submitted two amendments intended to be proposed by him to the bill (H.R. 4000) supra; as follows:

AMENDMENT NO. 5422

At the end, add the following:

SEC. 2. LIMITATION ON DEFENSE FUNDING OF THE NATIONAL DRUG INTELLIGENCE CENTER.

(a) LIMITATION ON USE OF FUNDS.—Except as provided in subsection (b), funds appropriated or otherwise made available for the Department of Defense for fiscal year 1997 may not be obligated or expended for the National Drug Intelligence Center, Johnstown, Pennsylvania.

(b) EXCEPTION.—If the Attorney General operates the National Drug Intelligence Center using funds available for the Department of Justice, the Secretary of Defense may continue to provide Department of Defense intelligence personnel to support intelligence activities at the Center. The number of such personnel providing support to the Center after the date of the enactment of this Act may not exceed the number of the Department of Defense intelligence personnel who are supporting intelligence activities at the Center on the day before such date.

SEC. 3. INVESTIGATION OF THE NATIONAL DRUG INTELLIGENCE CENTER.

(a) INVESTIGATION REQUIRED.—The Inspector General of the Department of Defense, the Inspector General of the Department of Justice, the Inspector General of the Central Intelligence Agency, and the Comptroller General of the United States shall—

(1) jointly investigate the operations of the National Drug Intelligence Center, Johnstown, Pennsylvania; and

(2) not later than March 31, 1997, jointly submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the investigation.

(b) CONTENT OF REPORT.—The joint report shall contain a determination regarding whether there is a significant likelihood that the funding of the operation of the National Drug Intelligence Center, a domestic law enforcement program, through an appropriation under the control of the Director of Central Intelligence will result in a violation of the National Security Act of 1947 or Executive Order 12333.

AMENDMENT NO. 5423

At the end of the Act, insert the following:

SEC. . AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE TO FUND ACTIVITIES RELATING TO THE SEARCH FOR INDIVIDUALS MISSING IN ACTION AND BELIEVED TO BE PRISONERS OF WAR.

(A) AUTHORITY TO DISPOSE.—The President may dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b).

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

Material for disposal	Quantity
Chrome Metal, Electrolytie	8,471 short tons.
Cobalt	9,902,774 pounds.
Columbium Carbide	21,372 pounds.
Columbium Ferro	249,395 pounds.
Diamond, Bort	91,542 carats.
Diamond, Stone	3,029,413 carats.
Germanium	28,207 kilograms.
Indium	15,205 troy ounces.
Palladium	1,249,601 troy ounces.
Platium	442,641 troy ounces.
Rubber	567 long tons.
Tantalum, Carbide Powder	22,688 pounds contained.
Tantalum, Minerals	1,748,947 pounds contained.
Tantalum, Oxide	123,691 pounds contained.
Titanium Sponge	36,830 short tons.
Tungsten	76,358,235 pounds.
Tungsten, Carbide	2,032,942 pounds.
Tungsten, Metal Powder	1,181,921 pounds.
Tungsten, Ferro	2,024,143 pounds.

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) AVAILABILITY OF RECEIPTS.—(1) Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a) shall be deposited into the fund established by paragraph (2).

(2)(A) There is established a fund in the Treasury to be known as the "Missing Persons Activities Fund" (in this paragraph referred to as the "Fund").

(B) There shall be deposited in the Fund amounts received as a result of the disposal of materials under subsection (a).

(C) Sums in the Fund shall be available to the Secretary of Defense to defray the cost to the Department of Defense of activities connected with determining the status and whereabouts of members of the Armed Forces of the United States who are missing in action and believed to be prisoners of war, including the administrative costs and the costs incurred by the Department in connection with judicial review of such activities. Such amounts shall be available for that purpose without fiscal year limitation.

(e) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(f) DEFINITION.—The term "National Defense Stockpile" means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, October 2, 1996, beginning at 9:30 a.m. to conduct an oversight hearing on the regulatory activities of the National Indian Gaming Commission [NIGC]. The hearing will be held in room 216 of the Hart Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEE TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Monday, September 30, 1996, at 3 p.m. to hold a closed business meeting.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Monday, September 30, 1996, at 6 p.m.

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

ADDITIONAL STATEMENTS

IRS REVENUE PROCEDURE 96–41

• Mr. GRASSLEY. Mr. President, in late July, IRS issued a Revenue Procedure that may cost thousands of State and local governments and their taxpayers as much as $2 billion. The purpose of the IRS action is to recover funds that were diverted from the Treasury when local governments were overcharged by investment firms for securities they purchased in the course of tax-exempt municipal bond refinancings. If these State and local governments had caused the overcharges or if they themselves benefitted then the IRS ruling, even though costly, might be fair.

That, however, is not the case. There has been no suggestion whatsoever

that municipal authorities across America acted unlawfully. Instead, as expressed by the president of the League of Cities in a recent letter to Treasury Secretary Rubin, "it appears that the IRS understands that cities are not at fault, but rather the IRS wants to use cities to go after the underwriters who overcharged us."

In Iowa alone the IRS ruling could cost taxpayers more than $1.5 million. For other States the totals run even higher. In California, for example, Rev. Proc. 96–41 could require State and local governments to pay as much as $200 million to the IRS.

If, as the IRS suggests, underwriters and investment bankers were responsible for use of "a valuation method that results in prices * * * that exceed fair market value," it is those underwriters and investment bankers who should repay the Treasury, not towns, cities, State universities, school districts, transportation systems and utility authorities. Indeed, by some estimates, according to the New York Times: "underwriters may have earned some $2 billion to $3 billion of illegal profits."

Fortunately, under the False Claims Act, the Government has the ability to proceed directly against any party which causes financial loss to the Treasury and recover treble damages plus penalties. The False Claims Act may be helpful in the yield burning context.

Ten years ago, President Reagan signed the 1986 amendments to the False Claims Act into law. As the principal sponsor of the 1986 amendments, my purpose was to strengthen and revitalize the Justice Department's efforts to fight fraud against the Government wherever it occurs. Since then, false claims recoveries to the Treasury have totaled more than $1.3 billion.

While the statute has been applied most often in the context of Federal defense spending and federally funded health insurance programs, with the narrow exception of income tax cases, the act allows the Government to recover treble damages and penalties against anyone who defrauds the Treasury. If the overcharges described by the IRS occurred, the U.S. Treasury may have sustained substantial losses as it essentially paid unlawful profits to those who sold the overpriced securities. If such losses occurred, the False Claims Act offers an ideal remedy.

For these reasons, I intend to write to Attorney General Reno and urge that the Department of Justice investigate the circumstances underlying the IRS action, and that if so warranted, the Department then seek to pursue all remedies against any party which damaged the Government by overpricing securities sold in connection with municipal bond refinancings. I will also write to IRS Commissioner Margaret Richardson to indicate my concern that the IRS is seeking to make local governments the primary target for repayment of any sums that were lost by the Government as a result of overcharges for escrow securities.•

TENNESSEE ALLOYS CO.

• Mr. SHELBY. Mr. President, I rise today to recognize and pay tribute to Tennessee Alloys Co. of Bridgeport, AL, for their remarkable health and safety record. On April 19, 1996, the Tennessee Alloys Co. plant reached the 4-year mark without a single lost time accident. During this time period, the plant worked a total of 678,585 hours. Mr. President, this is an outstanding accomplishment.

Tennessee Alloys Co. is a producer of ferroalloys, and employs nearly 80 people. It is a joint venture of Applied Industrial Materials Corp., the managing partner, and Allegheny Ludlum Corp. Specifically, Tennessee Alloys Co. manufactures 50 percent ferrosilicon, 75 percent ferrosilicon, and high purity ferrosilicon. These products are a critical element used in the production of iron castings and steel and have special application in high performance generators, transformers, and motors.

Bridgeport plant manager Jerry Rich and his management team deserve special recognition on this occasion, as do the Tennessee Alloys Co.'s other hard working employees. Tennessee Alloys Co. sets a fine example by demonstrating the importance of high productivity balanced with concern for the health and safety of employees. This balance is not possible without the total commitment of both employees and management who take great pride in their work and their company. I would therefore like to recognize Tennessee Alloys Co. for its outstanding health and safety record and wish them continued success in the future.•

ACCELERATING THE DEVELOPMENT OF AIDS DRUG

• Mrs. FEINSTEIN. Mr. President, I rise today in appreciation of the leadership of Senator ROTH, chairman of the Finance Committee, and Senator MOYNIHAN, who brought to the Senate and secured passage of miscellaneous tariff legislation. The legislation takes a number of important steps and deserves our support.

I am particularly pleased Senator ROTH and Senator MOYNIHAN were able to incorporate S. 2021, a bill I introduced earlier this year which would reduce tariffs for certain chemicals used in a new AIDS drug that has shown encouraging test results. Upon approval, the Finance Committee bill will take an important step to reduce tariffs for these chemicals, which are not available in the United States.

We must do everything we can to find a cure for HIV/AIDS. However, until we have a cure for this urgent health priority, we need to find effective treatments and put them in the hands of people with needs. This provision will accelerate the manufacturing and final testing for a new protease inhibitor and deserves the full support of Congress.

S. 2021, legislation I introduced with my colleague Senator BOXER, would eliminate the tariff for several chemical compounds which are required for the manufacture of an AIDS drug, nelfinavir mesylate, which has produced promising test results.

PROTEASE INHIBITORS

Nelfinavir is one of a new class of AIDS drugs called protease inhibitors. These drugs are designed to block an enzyme, called protease, that appears to play a crucial role in the replication of HIV.

During the 11th International Conference on AIDS in Vancouver, British Columbia, researchers released evidence that protease inhibitor drugs, when taken in combination with existing therapies, can reduce levels of the AIDS-causing virus in blood to levels so low that the virus is undetectable by even the most sensitive tests. AIDS researchers at the conference describe this new drug therapy as a major and unprecedented step in combating AIDS, one that may represent a treatment approach that may delay the onset of AIDS, extend patients' lives, and transform AIDS into a long-term, manageable disease.

Mr. President, HIV/AIDS is a critical public health issue, requiring the Nation's full attention. In America today, AIDS is the leading cause of death for young Americans between the ages of 25 and 44.

In my State of California, 1 out of every 200 Californians is HIV positive, while one of every 25 is HIV positive in my home of San Francisco.

More than 220,700 American men, women and children died of AIDS by the end of 1993. While the number of deaths trails other urgent health priorities such as cancer or heart disease, AIDS is nearly equally debilitating to the Nation when measured by the years of potential and productive life lost due to the disease.

AIDS is a paramount public health concern and every effort should be made to ensure that drugs are made available as swiftly and at as low a cost as possible. We simply cannot delay or waste time in providing drugs, treatments or materials needed to fight this disease. This tariff legislation represents a modest, but important, step.

ZERO TARIFF FOR PHARMACEUTICALS

Under the 1994 GATT agreement, most pharmaceutical products are entitled to enter the country without a tariff. However, the zero tariff does not apply to many new pharmaceutical products or their chemical ingredients.

As a result, the chemicals needed to make nelfinavir mesylate, an AIDS protease inhibitor currently undergoing research testing, but not yet a recognized pharmaceutical product under GATT, would be ineligible for the pharmaceutical zero tariff.

During negotiations with World Trade Organization nations to implement the pharmaceutical zero tariff, the administration successfully added the chemical compounds needed to manufacture the AIDS drug. As a result, the tariff will drop to zero on April 1, 1997.

Nelfinavir is on the Food and Drug Administration's fast-track approval process for AIDS drugs. Commercial production of the drug will begin well before April 1, in order that the drug can be immediately available to AIDS patients upon FDA approval. Although currently imported duty-free for use in clinical research trials, the imported chemicals will soon be used for commercial production. During the period of commercial production prior to April 1, the chemical compounds will face a 12 percent tariff, which will only add to the cost and delay the drug's production and distribution to individuals in need.

Fifteen days after enactment, this bill will eliminate the tariff for two of the essential and unique chemical inputs, as well as for the active ingredient nelfinavir, acid chloride, chloroalcohol and AG 1346, until April 1, 1997. On April 1, the tariff drops to zero under the WTO pharmaceutical agreement. Without this legislation, the manufacturer would face a 12 percent tariff for its chemicals, which are not available in the United States, as the drug proceeds into production. This tariff reduction will allow for the acceleration of drug production, providing more timely relief for the public.

The Congressional Budget Office reviewed S. 2021, concluding the legislation will have only a de minimis impact on tariff revenue. However, for AIDS patients, their families and those at risk, the impact may be profound. Congress should take this opportunity to reduce tariffs for these AIDS chemicals.

As a matter of public policy, we should do everything we can to develop AIDS drugs and treatments. Without this legislation to remove the tariff, we will be tolerating needless hurdles and delay, rather than expediting needed relief. Patients and their families do not have time to wait for the next round of drugs to be approved and added to the zero-tariff list, which is scheduled for review in 1999. By importing the chemical compounds without a tariff, we can accelerate the drug development process.

Ambassador Barshefsky and others in the Administration deserve tremendous credit for extending a zero tariff for these chemical components through international negotiations. I am pleased to support Chairman ROTH and Senator MOYNIHAN, the Finance Committee bill. I also wish to thank California Representatives BILL THOMAS, ROBERT MATSUI and BRIAN BILBRAY for their bipartisan efforts to build support on the House. The legislation represents an encouraging step forward.•

DAVIS-BACON REFORM IN THE 105TH CONGRESS

• Mr. HATFIELD. Mr. President, throughout the 104th session, Congress and the American people sought new ways to enhance the training, health care, and retirement security of the Nation's workforce. Statistics tell us that our economy is healthy, stronger than it has been for years, yet, our sense of personal economic security has been shaken. News articles of corporate downsizing and consolidations have disturbed the confidence in the American economy.

Under a much harsher economic umbrella, Congress, 64 years ago, intent on sustaining a construction industry already ravaged by the economic instability of the Great Depression, reasoned that the destructive practices of the Southern contractors would be best resolved by requiring that Federal contracted labor be paid the locally prevailing wage, thereby halting the tendency of Government contractors to drive down workers' wages in order to win lucrative projects. Thus, I believe today, more than ever, we need the Davis-Bacon Act to enhance the training, health care, and retirement security of the Nation's work force. The dividends of the Davis-Bacon Act are pervasive: a ready pool of trained and highly skilled construction workers, decreased construction accidents and the injuries and fatalities that are caused thereby, and the contributions to local, State, and Federal tax revenues that can only be made by working men and women.

As Governor of Oregon, I signed that State's little Davis-Bacon Act into law 37 years ago, and I have supported the intelligent use of the prevailing wage standard in Government contracts since.

Mr. President, Davis-Bacon has been debated year after year, and I do agree with opponents of Davis-Bacon that it needs revision. I emphasize that we need reform of Davis-Bacon and not repeal, as my colleagues agreed on May 22 of this year when 99 Senators voted in support of Davis-Bacon reform and not repeal. As my colleagues well know, it has been my objective during the 104th Congress to enact several long overdue changes to the 65-year-old Davis-Bacon Act, which enforces a prevailing wage standard on Federal construction projects. In the final hours of the 104th Congress, I ask the Members of the 105th Congress to reflect on the progress that was made under my Davis-Bacon reform bill, S. 1183. For example, 7 Republican cosponsors and 19 Democrats cosponsoring S. 1183 for a total of 26 cosponsors serves as a simple illustration of the progress that was made under the 104th Congress toward Davis-Bacon reform and not repeal.

Mr. President, I ask those who adamantly support Davis-Bacon repeal to harken to the cry of Davis-Bacon reform. The Davis-Bacon Act as it now stands, indeed deserves some of the criticism that has been levied against it by some of my distinguished colleagues. Nevertheless, its purpose of protecting the jobs of our Nation's construction workers must persuade us to reform, rather than repeal, the act. I ask my colleagues who support repeal, do we continue to live under a Davis-Bacon law, which we agree needs reform, or continue on under current law which will not be repealed now or in the foreseeable future. The logical answer is to support and vote for sensible reform, as in my bill S. 1183. The Davis-Bacon reform bill which I sponsored is supported by the building trades unions and several coalitions of contractors groups whose 21,000 members across the Nation perform major construction projects covered by Davis-Bacon.

I urge my colleagues who will remain in this great body and the new Members who will arrive in the Senate and House in January to continue this bipartisan, management-labor compromise for it provides us with a rare window of opportunity to pass the reforms that Davis-Bacon urgently requires. Such broad-based support for Davis-Bacon reform was and is extraordinary on Capitol Hill and I hope that it can be recreated in the next Congress.•

DR. CHRISTINA JEFFREY

• Mr. NUNN. Mr. President, I have been contacted by my constituent, Dr. Christina Jeffrey of Kennesaw, GA, who was formerly the historian for the other body.

Dr. Jeffrey has asked that I place in the RECORD materials which would help correct unfounded media reports about her professional reputation. I am pleased to do this for Dr. Jeffrey because I have long noted the fact that the media is sometimes quick to report the negative, but slow to report corrections.

I know of Dr. Jeffrey from her service as a volunteer with other academicians on my nonpolitical advisory board which selects young men and women to serve as interns in my Senate offices. Based on what I know regarding her reputation among her colleagues who know her best, Dr. Jeffrey is a person of integrity with a genuine interest in public service as well as higher education.

It is sad that in this city, both elected officials and staff are often subjected to accusations and actions that go far beyond the bounds of fair play. I hope the following material helps clarify the facts involving Dr. Jeffrey's professional reputation.

The material follows:

DEPARTMENT OF EDUCATION,
Washington, DC, March 22, 1989.

Hon. RICHARD SHELBY,
U.S. Senate,
Washington, DC.

DEAR SENATOR SHELBY: Your letter to Secretary Cavazos concerning Dr. Christina Price has been forwarded to me for reply.

Dr. Price's concern is understandable. She was generous in acting as a reviewer for the National Diffusion Network (NDN) on the application for funding of a curriculum entitled "Facing History and Ourselves." Denial of that funding application has created an extended controversy, and disclosure of her comments in the media has created a great deal of misunderstanding about both the program and Dr. Price's own views.

I believe Dr. Price was acting in good faith, and was delivering honest opinions, when she reviewed "Facing History." She argues that here comments were written in a kind of academic shorthand, not for public consumption, and that in no way did she intend to convey an attitude of racism or anti-Semitism. We accept her contention. And to the extent that any Department of Education official has characterized Dr. Price herself as racist or anti-Semitic, we do indeed apologize.

However, it is also true that some of Dr. Price's review comments were ambiguously phrased, and that portions lifted out of context and reprinted in the media could lead an objective reader to conclude that she favored presenting the Nazi or KKK point of view in the interests of "balance or objectivity." While the best education about any historical issue requires an understanding of the motivations of all parties, the teaching of the Holocaust demands clear delineation between good and evil. To the extent that outside observers believed Dr. Price to be advocating a morally neutral approach to the teaching of the Holocaust—and to the extent that they further believed this represented the position of the Department of Education—it is not surprising that they would raise strenuous objections.

It should also be noted that under the Freedom of Information Act, the Department of Education was required to release a list of reviewers, and the evaluations of the projects submitted by them, without identifying which reviewers made which comments. We complied with FOIA requirements in supplying this information. Dr. Price was informed of this policy in a letter from Dr. Shirley Curry, director of the Recognition Division, on November 19, 1986. It read in part: "Your review of applications for grants becomes part of the official government record and will be a determining factor in choosing who will be funded. If requested, applicants will be given copies of the reviewers' comments. However, the names of the reviewers will be removed from the review instruments before being sent out."

The most difficult aspect of this episode is that I am sure Dr. Price feels as strongly about appropriate teaching of the Holocaust as we do (and for that matter, as strongly as those who created the "Facing History" curriculum). She did what was asked in good faith. Unfortunately, what she wrote left room for misinterpretation.

In the event that this controversy continues, you may rest assured that I will do everything possible to ensure that no further confusion arises, and that no one in this Department casts aspersions on the character of Dr. Price.

Thank you for your interest in this matter. Since you wrote on behalf of Dr. Price, we trust you will be providing her with a copy of this response.

Sincerely,

PATRICIA HINES,
Assistant Secretary.

CATHOLIC LEAGUE,
New York, NY, September 26, 1996.

Hon. SAM NUNN,
Washington, DC.

DEAR SENATOR NUNN: As president of the nation's largest Catholic civil rights organization, I am delighted to write a letter of support for Dr. Christina Jeffrey. Dr. Jeffrey, as the public knows, was terminated as House historian on the grounds that she promoted the inclusion of the Nazi perspective in Holocaust curriculum.

What the public does not generally know is that Dr. Jeffrey is a determined anti-Nazi scholar whose reputation has been unfairly maligned by uninformed ideologues. It was a disgrace that she was terminated in the first place, and it is doubly disgraceful that her reputation remains unfairly tarnished. That is why I am appealing to you to clear her name by submitting this letter, and others like it, into the Congressional Record.

I have spent most of my life as a college professor, and, having taught Political Sociology, I know that it is important for students to understand the mind-set of those who sponsor genocide. Yes, in the hands of a Nazi sympathizer, such a pedagogical approach could be misused to engender empathy for terrorists. The same is true of virtually any topic of an incendiary nature. But when taught by someone with the impeccable moral credentials of a Dr. Jeffrey, such an orientation can yield very positive results, both scholarly and morally. After all, if the goal is to stop another Holocaust from ever happening again, it is critical that everyone know the psychology and social soil in which genocidal ambitions flourish.

Dr. Jeffrey represents the very best of her Catholic training: she wants to help craft a world where injustice does not prevail. It is a travesty that injustice has been visited upon her, even if those who perpetrated it remain sadly ignorant of her character, intentions and effects.

Sincerely,

WILLIAM A. DONOHUE,
President.

GEORGIA CONFERENCE, AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS,
Carrollton, GA, October 24, 1995.

Re Christina Jeffrey.

To: Whom it May Concern.

From: Don Wagner.

The national office of the American Association of University Professors, in response to a request from the Georgia Conference-AAUP, wrote to Secretary of Education Richard Riley to protest the treatment which Dr. Christina Jeffrey received from the Department of Education, i.e., the release of her name without her knowledge or permission in conjunction with a grant review she did for the Department in 1986. This treatment led ultimately to her being fired as House historian by House Speaker Newt Gingrich. The peer review process is designated to be confidential and the Department, when it breaches that promised confidentiality, damages the whole system, and can, as we saw in Dr. Jeffrey's case, unfairly harm the individuals involved. The Department of Education responded to our inquiry positively and shares our concerns about confidentiality and Dr. Jeffrey's case.

NATIONAL ASSOCIATION OF SCHOLARS,
Princeton, NJ, October 31, 1995.

The National Association of Scholars is pleased to endorse the public vindication of Professor Christina Jeffrey, to whom we extend every good wish for the rehabilitation of her career. Now that a fair reading of the evidence has finally been rendered, no one could possibly doubt her complete professional integrity and basic human decency. Clearly, she is no Nazi sympathizer or crank racist, and it is regrettable that her reputation has had to endure such calumny.

It is just as clear, however, that this entire incident should never have occurred. When in 1986 Professor Jeffrey was invited by the US Department of Education to evaluate grant proposals for various projects, she was assured that such consultations—because of the candor essential to the process—were held in strict confidentiality. But in 1988, one of her reviews was leaked to the press and quickly found its way to a congressional committee where she was pilloried as anti-Semitic, based on a selective reading of private comments removed from their proper context. She was subsequently vindicated, although the unfortunate affair proved not to be at an end. After her appointment as House Historian last year, these false and preposterous changes were resurrected in Congress and the major media made a particularly unseemly rush to judgment based on her presumed guilt. Not surprisingly, her summary dismissal followed, based on nothing more than hearsay and a complete misreading of the original incident in 1988. Those in the Congress and the media responsible for circulating these distortions owe Dr. Jeffrey a profound apology.

We are gratified, once again, that Professor Jeffrey has finally received some justice. The lessons to be drawn for the future, however, seem obvious: if scholars working in government service are guaranteed anonymity—an essential component in many professions—this must be respected by political leaders and journalists. Otherwise, given the sad experience of Mrs. Jeffrey, many academics will be understandably chary of accepting similar opportunities for public service lest the same fate befall them.

ANTI-DEFAMATION LEAGUE,
New York, NY, August 22, 1995.

Prof. CHRISTINA JEFFREY,
Department of Political Science and International Affairs, Marietta, GA.

DEAR PROFESSOR JEFFREY: Thank you for your letter. I, too, found our meeting in Atlanta rewarding. I understand and appreciate your explanation—and remorse—for what we both agree were ill-considered, poorly chosen remarks.

I want to assure you that, after examining the facts and circumstances of the controversy involving the "Facing History and Ourselves" Holocaust curriculum, ADL is satisfied that any characterization of you as anti-Semitic or sympathetic to Nazism is entirely unfounded and unfair.

Your clear repudiation of any form of Holocaust denial and your advocacy of Holocaust education demonstrate that the "Facing History" incident reflected neither an inclination to deny the reality of Nazi persecution of Jews nor anti-Semitism, but was simply a regrettable mistake.

I welcome your very useful suggestion for a conference on Holocaust education at Kennesaw State College, perhaps involving other colleges in the area. ADL would be pleased to act as a co-sponsor and to offer our resource materials and guidance for such a worthy proposal.

I commend your effort to set the record straight and your appreciation of the need for historical accuracy and for teaching the lessons of the Holocaust. I hope this communication will help you to put the unfortunate controversy behind you and allow you to move ahead with your important educational work.

Sincerely,

ABRAHAM H. FOXMAN,
National Director.

OUT OF SPOTLIGHT, REPUTATION RESTORED
(By Dick Williams)

For Newt Gingrich and his staff, the issue of Dr. Christina Jeffrey was one of damage control. For the press, it was a one-day story. For the cynical, it was the allotted 15 minutes of fame for Jeffrey, an associate professor of history at Kennesaw State College.

For Jeffrey, her professor husband, Robert, and their children, it was personal. The events of January scarred her and damaged the family reputation and finances. Today she is asking—to use the words of former Labor Secretary Ray Donovan—"Where do I go to get my reputation back?"

It will be an uphill battle.

Jeffrey has been on a roller coaster. In the excitement of Gingrich's accession to speaker of the House, she was named House historian early this year. It was a plum, a career-maker, for someone at a commuter college. Then came the accusation that changed her life. In 1986, while consulting for the U.S. Department of Education, she criticized a junior high school course on the Holocaust.

"The program," she wrote then, "gives no evidence of balance or objectivity. The Nazi point of view, however unpopular, is still a point of view and is not presented, nor is that of the Ku Klux Klan."

In the shorthand of the press, that sentence became her assertion that "the Nazi point of view" wasn't presented. If she had it to do over again, you can bet she would phrase her objections differently. To properly understand Nazism and the origins of the Klan, students should understand the forces that spawned them, the economy, the resentments and the paranoia. To understand how they came to be is to understand how such perverse movements can be prevented.

But Jeffrey's text and context were lost to the shorthand and the headlines. Major Jewish groups were quick to condemn her, and Gingrich was lightning quick in firing her. She didn't land in the U.S. Capitol; she arrived in a revolving door that sent her spinning back toward Georgia—her reputation shredded in one day's headlines around the nation.

Fortunately, both Jeffreys were able to regain the jobs they had quit to go to Washington. They lost a good deal of money in the relocation, but they are on the mend. And this week came vindication, though you had to look hard to find it.

Abraham Foxman, director of the Anti-Defamation League of B'nai B'rith wrote to exonerate her. When she was dismissed, the Anti-Defamation League had praised Gingrich, saying Jeffrey's views were "misguided and profoundly offensive."

Now Foxman says he agrees with Jeffrey that her remarks were ill-considered and poorly chosen, but he told The Washington Post that if Gingrich gives her a job again, the Anti-Defamation League would say, "God bless."

"I want to assure you," he said, "that after examining the facts and circumstances of the controversy involving the 'Facing History and Ourselves' Holocaust curriculum, [the Anti-Defamation League] is satisfied that any characterization of you as anti-Semitic or sympathetic to Nazism is entirely unfounded and unfair."

In a perfect world, such a letter would right the good ship Jeffrey. But the story was lost to the trial of Mark Fuhrman, air attacks in Bosnia and Hillary Rodham Clinton's stern and stirring speech in China.

The story received no national play. The truth is, the corrections never catch up with the headlines, unless one has the resources of Philip Morris.

Still, for Christina Jeffrey, her academic reputation has been restored, even if the views of the broader public will take longer to change. She speaks now of "peace of mind," and—of course—a book. If she is successful, she might get even in a lot of ways.•

TAX-FREE LIQUIDATION LEGISLATION FOR NOT-FOR-PROFIT CORPORATIONS

• Mr. HATFIELD. Mr. President, it is a great pleasure to be an original cosponsor of S. 2141 introduced Friday by Senator FEINSTEIN. This legislation will expand charitable giving by families and businesses by permitting the tax-free liquidation of closely-held corporations into tax-exempt charities and foundations.

Voluntarism and charity are concepts deeply imbedded in my personal philosophy. At a time of shrinking Federal discretionary dollars, governments on all levels, Federal, State, and local, are forced to reduce spending throughout their budgets. With the general decline in Federal services, an increasing burden is being shouldered by nonprofit organizations and private citizens. During this critical stage in restructuring Government and returning flexibility to our local communities, Congress should do all that it can to encourage private philanthropic efforts. By supporting legislation like S. 2141, Government can assist charities in helping those in need without increasing Federal spending and contributing further to our enormous deficit.

It is also important to note that many organizations from the State of Oregon and across the country are supporters of the concept of this legislation. In the State of Oregon alone, the Boys & Girls Clubs of Portland, the Portland Art Museum, the Oregon Health Sciences University, the Meyer Memorial Trust, and the Catholic Charities of Portland have all promoted this type of legislation.•

SALLIE MAE PRIVATIZATION IN OMNIBUS APPROPRIATIONS

Mr. SIMON. Mr. President, I am pleased that the omnibus appropriations bill includes provisions in title VI that would privatize the Student Loan Marketing Association, known as Sallie Mae. This is the first time that a major government-sponsored enterprise has been cut loose from its Federal moorings, and that is an important precedent.

I began calling for Sallie Mae's privatization in 1991, when I questioned the high salaries it was paying its executives, and I raised concerns about the organization's intense and often-deceptive lobbying against student loan reforms. That did not seem appropriate for a government-created entity.

This is not the privatization bill that I would have written. Untying the company's ties to Federal taxpayers may take years, longer than I believe is necessary. Sallie Mae is not being required to repay any significant amount to taxpayers. It is true that a fee was imposed in 1993, but the company has found a loophole to avoid paying a large part of that fee, and the privatization bill fails to close that loophole.

But despite these flaws, this is an important development, particularly in the larger context of improving government. We can learn from this effort, and I hope that my colleagues, in future Congresses, will take a close look at a bill I introduced with Senator PRYOR recently, S. 2095, which promotes a more rational and consistent approach to government-sponsored enterprises and government corporations.

Mr. President, the Sallie Mae privatization provisions include important language designed to ensure that all students have access to loans. The Higher Education Act already requires that student loan secondary markets using tax-exempt bonds may not make lending or loan-purchasing decisions based on the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular institution, length of the borrower's educational program, or the borrower's academic year. The purpose of this rule is to ensure that secondary markets do not use such factors as excuses for not effectively performing the supportive functions for which the markets have been allowed to participate in the Federal student loan program. Section 604 of the omnibus appropriations bill amends the Higher Education Act to impose on Sallie Mae the same service requirement that apply under current law for tax-exempt secondary markets. This is a important element of the privatization legislation.•

TRIBUTE TO ELIZABETH NOYCE

• Ms. SNOWE. Mr. President, a bright light of optimism and benevolence in Maine has been extinguished. I rise to express my deep sadness and profound sympathies to the family of Elizabeth Noyce, a great Mainer and close friend

who has left an indelible mark on our state and all those whose lives she touched.

Elizabeth Noyce had achieved an almost legendary status in Maine—a goal which ironically would have been the furthest from her mind. She was an incredible and unique woman whose tremendous loss is being felt throughout the State. I take the floor today to honor the memory of this woman who gave so much to the place she loved and asked so little in return.

What makes Betty Noyce special, what endeared her to the people of Maine was her humble, unassuming style and unwavering commitment to a better future. Her generosity was born not of a quest for notoriety, but from a deep and genuine devotion to our State. A close friend said it simply and said it best: "Maine was her passion."

Elizabeth Noyce did not grow up in Maine—nor did she grow up in luxury. But as so often happens during life's long journey, turns in the road brought her to Maine—and Betty's love affair with the State kept her there. And although she came to acquire money, she never lost sight of the things that are really important—family, friends, and a commitment to leaving the world a better place for having lived in it.

Betty Noyce has left our world, but her incredible legacy will be forever. She donated millions of dollars to Maine hospitals, museums, and colleges—but for Betty, simply writing a check was little payment on what she felt she owed to her adopted home. She also provided energy and leadership to a host of civic, cultural, and State organizations—but even more importantly, she gave us pride in our place and hope for a better future. Her enthusiasm was contagious—she made you believe in a project and believe in yourself. Betty invested more than money—she invested her time and her spirit and her energy. She was never a distant figure behind wrought iron gates— instead, she was a figure at the local diner, just an ordinary person taking a break from performing extraordinary deeds.

Indeed, practically every aspect of Maine's society—from business, to health care, education, arts and culture—was touched and enriched by her generosity. Consider what she has given just within the past couple of years: $3 million toward the Barbara Bush Children's Hospital at Maine Medical Center. $10,000 to help finance a gun buyback program conducted by the Portland Police Department. $1.3 million to the Cumberland County Civic Center to fund improvements and preserve its public name. $5 million to the University of Maine; and exceptional art works to the Portland Museum of Art.

Most importantly, she worked to create jobs, burnish the economies of Portland and the entire State, and make Maine a better place to live, work, and raise a family.

In recent years, Betty increasingly turned to what she called catalytic philanthropy. She measured the potential success of a project in terms of how many jobs would result and how much Maine would be improved. She knew that Mainers—proud and fiercely independent—want most of all to work and have the sense of self-worth and self-sufficiency that come with an honest day's effort.

Some of her projects that put people to work include: Starting a bank dedicated to local investors and savers; buying struggling office buildings; purchasing a local bakery—Nissen Baking—that employed over 300 workers; announcing plans for 24,000-square-foot public market in underprivileged area of Portland; unveiling plans for L.L. Bean to open factory store in a former 5-and-10 building downtown.

One of the most remarkable things about Betty Noyce—for all of her wealth, for all the things she had seen and done—was that she never became cynical, never became jaded. It was the simple things that gave her pleasure—a good book, a walk on the beach, or time spent next to the fireplace in the face of a good old-fashioned nor'easter. Perhaps it was because she was so comfortable with herself and what she wanted from life that she shunned notoriety. Betty Noyce never wanted her name on a building. She knew she was making a difference in the lives of Mainers, and that's all the gratification Betty ever needed.

Most of us in politics are here because we think we can improve the human condition, and we hope to leave a better America for the next generation. While Betty Noyce never held public office, I think we would do well to take a page from her book. At the memorial, Owen Wells, Betty's attorney and friend, said: "To be given a fortune and accept it not as a stroke of luck but a mission, as she did, represents a kind of moral fiber that is extraordinary." Indeed, she has set an example for compassion and generosity of spirit, and reminds all of us that we have an obligation to make use of whatever gifts we have to give.

I will always feel tremendous appreciation and deep affection for Betty and I will miss her very much. We will never forget her kindness, her enthusiasm, and the exemplary way in which she lived her life.•

TELAMON ELECTRONICS MAKING A DIFFERENCE

• Mrs. FEINSTEIN. Mr. President, I rise today to congratulate a successful small business in my State, Telamon Electronics, which will celebrate the opening of its new offices on October 1, 1996 in Chino, CA.

Telamon, Nortel, and Pacific Bell have forged a high technology business alliance in Chino which has shown how large and small businesses can work together effectively. Through their efforts, Telamon has created over 30 new high-technology jobs in one of the southern California communities most affected by the reduction in defense spending. At a time when we are shifting spending to the local level, these partners have made it possible for the California economy to benefit from Telamon's over $1 million in estimated tax revenues. It is the highest sales tax generator out of 2,100 businesses in the city of Chino, which is located 35 miles east of Los Angeles.

To foster employee growth, Telamon Electronics offers its employees profit sharing, rewards for suggestions, scholarships for their children, and education grants for their professional growth.

Telamon is enhancing its community by enhancing its employees.•

AMERICAN SCHOOLS AND HOSPITALS ABROAD

• Mr. ABRAHAM. I would like to congratulate the Senator from Kentucky for his leadership in shepherding the Foreign Operations Assistance Appropriations bill to a successful resolution. This legislation deals with many matters of importance to the United States. The Senator deserves our gratitude for his untiring efforts to bring about final enactment of this bill.

As the Senator from Kentucky knows, I have a particular interest in the American Schools and Hospitals Abroad or ASHA Program. Funding for this program falls under the Foreign Operations Assistance Appropriations bill. I am particularly concerned with the manner in which the bill's conference committee report resolves the question of ASHA funding. With the support of the Senator from Kentucky and the Senator from Vermont, my amendment to earmark $15 million for this program in fiscal year 1997 was included in the final version of the Senate bill. The House, however, did not include a similar provision in its bill. The conference committee also did not choose to include the earmark in the bill. But the conference committee did insert strongly worded language in the conference report which refers to ASHA funding.

I understand that during conference deliberation on this matter the managers of both the House and Senate agreed to two specific principles. First, it was agreed to that AID should not phase out ASHA. Second, the managers insisted that the ASHA Program be funded at an amount at least equal to that in fiscal year 1996. I would like to ask the Chairman for clarification as to the actual funding level contemplated by this language.

As the Senator from Kentucky knows, on September 6, 1996 AID formally notified Congress that grants

made through ASHA in fiscal year 1996 would total $17.6 million. Based on this figure, it would be my interpretation of the report language that AID should award ASHA grants totalling at least $17.6 million for fiscal year 1997. In other words, in referring to the fiscal year 1996 funding level, the conference committee had in mind the ASHA funding level for the most recent year; it was not concerned with the fiscal year in which allocated funds were actually appropriated. Could the Senator from Kentucky tell me if my interpretation is correct?

Mr. MCCONNELL. I thank the Senator from Michigan for his kind words. I am pleased to say that his interpretation is correct. The Conference Committee intentions were to make clear to AID that it strongly disagrees with the agency's proposal to phase out ASHA over the next 2 fiscal years. There is broad agreement in both the Senate and the House that this program should be continued at levels close to those of the recent past. As for the fiscal year 1997 grant cycle in particular, we expect AID to make grants of at least $17.6 million. So, although the conferees did not retain the specific language of the amendment by the Senator from Michigan, we certainly concur with its spirit.

Mr. ABRAHAM. I thank the Senator from Kentucky for that clarification.●

A PLACE TO STAY

● Mr. SIMON. Mr. President there is a publication in Chicago called Streetwise that is sold by homeless people. They sell it for $1.00 each, and my guess is that most of that money goes to the person who sells it.

In an issue that I bought the other day from someone on Michigan Avenue, who appeared to be homeless, is a brief analysis about who the homeless are and why they are homeless.

It gives as a source for this the Chicago Coalition for the Homeless.

They also have a story written by Jeff Mason about a man named Mike who tells about his 24 hour experience as a homeless person.

This takes place at the Pacific Garden Mission, which I've had the opportunity to visit on several occasions. It is a religious organization where people are obviously committed to living their faith and helping those who are less fortunate.

Mr. President, I ask that both items from Streetwise be printed in the RECORD.

The material follows:

[From Streetwise, Sept. 16–30, 1996]

A PLACE TO STAY

(By Jeff Mason)

7 p.m. It's a summer Wednesday night in Chicago. The sky is getting dark as people hustle to their cars, trains and buses. Everyone has some place to go, it seems. Everyone, that is, except Chicago's homeless. They remain on the streets or go to a shelter, looking for a place to stay.

Like any other night during the year, guests at the Pacific Garden Mission, located at 646 S. State St., are sitting on folding chairs in the assembly room waiting for church to begin. The room is large, easily accommodating the more than 400 men and women the shelter serves every night. Rectangular signs hang from the walls with Bible verses proclaiming the wonders of salvation. Men dressed in suit coats and ties patrol the aisles, telling the guests not to lean against the walls and not to wander around the room.

Some of those seated in the chairs are dressed in shabby, dated clothing. Many men have overgrown beards and messy hair; others are better groomed and wear newer clothes. To stay the night, the guests must attend the church service. So they sit, they wait and, eventually, they worship.

"You either feel like you're in the military or you feel like you're in jail," says "Mike," a 35-year-old homeless man staying in the shelter. "They treat you like a child—like you don't have common sense. I guess they have to do it like that. Otherwise, it would be total chaos."

Mike, who declined to give his real name, has been homeless since his basement apartment flooded earlier this year. Pacific Garden Mission is his first shelter. He can't live at home because of a falling out with his family. In fact, his family and most of his friends don't even know he's staying here.

According to the Chicago Coalition for the Homeless, approximately 15,000 people are homeless like Mike on any given night in Chicago. The Chicago Department of Human Services reports that there are approximately 5,500 shelter beds available in the winter. Some shelters close during the summer, though, making the search for overnight housing even harder.

Michael Stoops, Director of Field Organizing for the National Coalition for the Homeless, recognizes that shelters meet a gaping social need but criticizes the way homeless people are treated in them.

"The regimentation is abominable," Stoops says. "They treat people who are adults like children."

High numbers force shelters like Pacific Garden, which is open all year, to enforce strict rules on the people who stay there.

"The reason it has to be so regimented is for the safety of everyone involved," says Pastor Phil Kwiatkowski, director of the men's division at Pacific Garden. "We want this to be a safe haven."

Father Jim Hoffman, director of the Franciscan House of Mary and Joseph, a shelter located at 2715 W. Harrison St., agrees. "We've been at 99 percent occupancy for the last two years," Hoffman says. "If procedures are followed, people feel safe here."

8 p.m. The church service at Pacific Garden has started. A college student opens the service with a prayer for those who haven't been saved. A chorus of junior high girls sings. A preacher delivers his sermon. "First-timers" are ushered into a small hallway adjacent to the meeting room to await counseling with one of the staff. After the service, the men and women are separated. Then, sandwiches and fruit are served and the guests get in line to go upstairs for bed.

"When you're hungry, you go to the shelter," Mike says. "When you want to sleep, you go to the shelter. When you want to take a shower, you go to the shelter. Without the shelter where would you get these things? What would you do? Where would you go?"

Some wouldn't go to a shelter at all. "I would always want to stay on the street instead of a shelter," says Joel Alfassa, Street Wise vendor # 267, who was homeless for almost two years. "I'm a very independent person. I don't like to be regimented, and that [freedom] is what the street offered."

9:30 p.m. The men stand in line for mandatory showers. Belongings are left in a locked room downstairs and each man is frisked before walking up to the second floor. The men are given hangers and told to strip in a communal dressing room next to the showers. Each man hands his hanger of clothing to an attendant and takes a timed two-minute maximum shower. A staff member walks in the room where the men are undressing and sprays the floor with an aerosol can. The men shout their approval; the spray masks the smell.

"This is home for a lot of individuals," Kwiatkowski says. "When you're living in a communal environment, everyone has to be clean."

A small towel and a thin hospital gown are issued after the showers and the dripping men plod their way to a bunk bed or a place on the floor. The mission has approximately 250 beds, but Kwiatkowski says they serve anywhere from 400 to 550 people a night.

"Unless you get there early to get a bed, or you're a first-timer, you'll be sleeping on the hard, stone floor. Unless you're exhausted, your first night in a shelter, you can't sleep," Mike says. "You have to be sure you're in a safe area. You have to hide your things. With so many people, it tends to be overcrowded; tempers flow easily. So, you've got your guard up on that."

"It could be a night in hell for you," Mike says.

11 p.m. The lights are dimmed. The room is filled with the sounds of snoring and farting—sounds of men going to sleep. Though all the men have bathed, the room still smells of sweat and body ordor. Talking is prohibited, but the noises of communal living keep some like Mike from getting a good night's sleep.

"Man, these guys snore like crazy. A lot of people may think that's not a big deal. But, let's say you're one of the fortunate people that does have a job—you don't get enough rest to go to work."

Mike works as a telemarketer for a company in Chicago. Beyond being tired, the stigma of living in a shelter hangs over him in the workplace. He has told no one where he lives for fear of getting fired.

"I would be a fool to say that I was staying in a mission," he says. In most people's eyes being homeless means you're a drunk, an addict or a criminal. Mike fears that reputation—a reputation he says does not fit him.

"If people knew that you are homeless or are a transient, that would lessen your opportunities to advance yourself or get yourself back on track," he says. "In order for you to advance yourself, to pull yourself out of the situation that you're in, in a way you have to don a disguise.

But the trappings of homelessness are hard to hide. People can spot it just by the grocery bags some carry. "Who's gonna go in that interview area with a bunch of bags and all your clothes and try to be taken seriously?" Mike asks. "People are dressed to the nines and here you are—you're lucky to have a shirt and tie. Do you think you're gonna get that job? You have to have a hell of an amount of character to rise above that situation."

Though the shelter gives bag lunches to those who are employed during the day,

Mike says it is not as helpful as it could be for people who have jobs. "You only get a change of clean clothes once a week," he says. "How are you are going to feel comfortable going to a job wearing the same clothes every day?"

In addition, the shelter staff often refuses to store things for residents who have job interviews. "You have a hell of a time trying to convince them to let you leave your clothes there for an hour without throwing them out," Mike says. "It seems like if you're trying to help yourself, they really don't want you there."

Kwiatkowski says the shelter will help guests with special needs such as storage on an individual basis. Mike says the clothes he stored at Pacific Garden were thrown away. Now Mike stashes his clothes in a closet where he works, but says he doesn't know what he'll do if someone finds them there.

1 a.m. Most of the residents at Pacific Garden are asleep. Those who can't sleep—especially first timers—are awake with their thoughts.

"You've got all of this stuff on your mind," Mike says. "Where am I going to go in the morning? Do I smell okay? What does my appearance look like? Am I presentable? Nine times out of 10 I'm not because I'm wearing the same clothes I was wearing yesterday."

4:30 a.m. The lights go on. Residents are awakened for the morning church service. Like the night before, attendance is required to eat. "All we ask is that they sit through the service," Kwiatkowski says. "I believe you shortchange an individual if you give them a bowl of beans and a suit of clothes and you shove them out the door."

Not everyone likes it, though. "It's forever in your face. I mean, forever in your face when you're there," Mike says. "It makes you not want to go to church sometimes."

Not all shelters in Chicago have the same religious requirements Pacific Garden has. Not all shelters allow people to keep coming back, either. "There is no limited length of stay here," Kwiatkowski says.

At Hilda's Place, a homeless shelter in Evanston, Ill., men and women have three days to establish goals or they are not permitted to return. "We will not let people stay on unless they are willing to work with the case managers and with the staff on goals," says Carolyn Ellis, the shelter's director. Hilda's Place does not have any religious requirements. However, Ellis says mandatory showers are handled on a "case-by-case basis" for those who need them.

5:30 a.m. The men are quiet as they collect their clothes. Those with their own soap clean up for the day. The rest go downstairs to get their bags and go to the service. Many fall asleep again until they are dismissed for breakfast. Breakfast consists of grits, eggs, a hard bagel and a glass of water or coffee. "The food is one of the better things," Mike says.

7 a.m. When they finish eating, the men leave the shelter, re-entering street life for another day. Mike's job doesn't start until late afternoon, so he heads for a park bench to sit for awhile.

"You have nowhere to go in the morning. You're wearing the same clothes. If it's raining, you're out here in the rain. If it's freezing, you're out here in the cold."

The stigma of homelessness follows him out of the shelter and on to the streets. "Just hanging out here in the park—people act as if you're invisible," he says. "Time moves very slowly sitting on a bench waiting for a place to open up. I wish I had enough money to go hang in McDonald's or White Hen."

Mike says he wishes the shelter would let people stay there longer during the day. According to Kwiatkowski, the shelter stays open all day during the winter but not the summer so guests can use the time to look for jobs.

"I don't even know of a job that's interviewing at seven o'clock in the morning," Mike says.

Les Brown of the Chicago Coalition for the Homeless sees a larger problem than how long shelters stay open. "The biggest danger with shelters is we've begun to, as a society, accept shelters as a normal way of housing people," he says. "It's becoming an institution—an institutionalized way of helping people who really need jobs and housing."

8 a.m. "It is now eight o'clock," Mike says. "Where am I gonna go?" Mike has to kill time until his job starts at 1:30 p.m.

"For me, this is just temporary," he says. "I need to get the hell away from here. I want something out of my life."

Until he has more money, though, Mike will continue going to the shelter at night. It's not a home, but at least it's a place to stay.

WHO ARE THE HOMELESS?

In Chicago, 80,000 are homeless during the course of one year.

42% are single men.

40% are families with children: The fastest growing segment of the homeless population is women with children. Domestic violence is a leading cause of homelessness among women with children.

17% are single women.

7% are unaccompanied youth: 25% of homeless youth become homeless before their 13th birthday.

25% are disabled.

Amost 50% are veterans: More Vietnam veterans are homeless today than the number of U.S. soldiers who died during the entire war.

WHY ARE THEY HOMELESS?

Lack of affordable housing

For every 225 households seeking housing, only 100 affordable housing units are available.

61% of poor Chicagoans spend 50% or more of their income on rent.

In Chicago, 700 single room occupancies for low-income people are destroyed each year.

The waiting period of public housing is 5½ years, and the waiting period for Section 8 housing certificates is 10 years. The Chicago Housing Authority has closed the list to new names.

Lack of decent jobs or sufficient income:

50% of homeless adults work full- or part-time but still cannot afford rent.

Chicago has lost more than 130,000 manufacturing jobs in the last decade.

In Chicago, a family of four must earn an annual income of $33,490 to meet a basic budget including rent, transportation and child care.

In Illinois, the ratio of low-skilled, unemployed workers to jobs that pay a living wage is 222 to 1.

Lack of health care or support services:

30% of the homeless suffer from varying degrees of mental illness.

40% are substance abusers.

8% have AIDS or are HIV-positive.

Source: The Chicago Coalition for the Homeless; City of Chicago's "Report on Hunger and Homeless in American Cities" for the U.S. Conference of Mayors 1990—1994.•

PROFESSIONAL BOXING SAFETY ACT

• Mr. ROTH. Mr. President, the Senate's passage of the Professional Boxing Safety Act marks a red letter day for what is often called the red light district of sports. For this Senator, it also marks the culmination of nearly 5 years of working to make professional boxing a safer sport for our young people who choose to enter the ring. One of those young men, in particular, is largely responsible for achieving this milestone. I believe it is important that we recognize and acknowledge the contribution of this boxer, from my home State of Delaware—Dave Tiberi.

It was through Dave Tiberi's misfortune and subsequent hard work that I focused my attention up close and personal on the problems currently facing professional boxing. On February 8, 1992, in a nationally televised world title fight, Dave Tiberi, an unheralded challenger, lost a controversial split decision to the International Boxing Federation's middleweight champion, James Toney. The ABC–TV announcer proclaimed it as "the most disgusting decision I have ever seen."

As a result of that fight, I directed that the Permanent Subcommittee on Investigations undertake a comprehensive investigation of professional boxing, the first in the Senate in more than 30 years. Unfortunately, that investigation revealed what many of us had suspected—that the problems plaguing the sport remained much as Senator Kefauver found them when the Senate last investigated this issue three decades earlier.

First and foremost among all the problems facing the sport today, is protecting the health and safety of professional boxers. During the Olympics in Atlanta, we saw the great lengths to which we go to protect our amateur boxers. Yet, when these and other young men graduate to the professional ranks, we fail to provide even the most basic health and safety protections through minimum uniform national standards. Instead, we leave professional boxers at the mercy of a patchwork system of health and safety regulations that vary widely State by State, both by rule and enforcement. In this day and age, that is not acceptable.

That is why I have worked, along with my colleague Senator DORGAN, to ensure this legislation remedies these inequities by establishing, for the first time, minimum uniform national health and safety standards. These provisions will ensure that every professional boxing match in the United States is conducted under these standards. Every professional boxer will know that, no matter where they fight, there will be a doctor at ringside; an ambulance available; and health insurance provided.

I also want to commend our colleagues in the House who significantly

strengthened this legislation by adopting a provision I have previously proposed—prohibiting conflicts of interest on the part of boxing regulators. My investigation highlighted conflicts of interest to be among the major problems facing boxing today, always to the detriment of the boxers. Dealing with this problem is essential if we are to effect meaningful boxing reform.

Dave Tiberi has never fought again, despite numerous lucrative offers. Instead he has dedicated his efforts to working with young people in Delaware and reforming boxing. If there has ever been a role model in boxing for our young people, his name is Dave Tiberi. Although he never got his world title, knowing that his hard work will protect future boxers is his big payday; and that is why Dave Tiberi will always be a champion.

Boxing reform is not a marquee issue that appeals to a large constituency. As such, it could be easily pushed aside and lost among all the other issues clamoring for attention in the final days of this Congress. Yet, professional boxing is important, not only to its millions of fans, but primarily because the sport creates opportunities for many young men for whom such opportunities are rare. We owe these young men a system outside the ring that works as hard to protect them as they do inside the ring. That is why I have worked to reform professional boxing. While it does not go far enough, I believe this legislation is a significant step toward achieving that goal. I commend and thank my colleagues for adopting this important legislation.•

REPUBLIC OF CHINA'S 85TH ANNIVERSARY

• Mr. CRAIG. Mr. President, I ask that the following letter of congratulations recognizing the 85th anniversary of the founding of the Republic of China be printed in the RECORD. In light of the efforts at political reform and recent economic successes of the Republic of China, it is appropriate that we honor this important milestone.

The letter follows:

U.S. SENATE,
Washington, DC.

President LEE TENG-HUI,
c/o Foreign Minister John H. Chang, the Republic of China, Taipei, Taiwan, R.O.C.

DEAR PRESIDENT LEE: We wish to extend our greetings to you, Vice President Lien Chan and Foreign Minister John H. Chang on the occasion of the 85th anniversary of the founding of the Republic of China.

In the last few years, Taiwan has impressed the world with economic success and political reform. We are well aware of your efforts in cooperating with us on matters of mutual interest. We are also aware of your recent campaign to rejoin the United Nations and other international organizations. As you seek to develop even better ties with the U.S. and shoulder more international responsibility, we wish you and your countrymen every success.

Representative Jason Hu has done an excellent job of keeping members briefed on what has been happening in your country. He and his staff are to be commended for their efforts.

Mr. President, may you and your people have a wonderful 85th anniversary celebration. Congratulations.

Sincerely,

TRENT LOTT.
THAD COCHRAN.
DON NICKLES.
LARRY E. CRAIG.•

THE DEFENSE MANPOWER DRAWDOWN

• Mr. NUNN. Mr. President, almost 4 years ago I made a series of speeches about our men and women in uniform who won the cold war.

I asked my colleagues to remember their sacrifice as we undertook the unprecedented drawdown of our All Volunteer Force.

I asked that we ensure that the drawdown was accomplished in a way that preserved the legacy of national security which that force had built.

And I called on the Congress to see that people leaving military service were given a helping hand as they moved into civilian life, because we owed it to them and because the Nation needed their skills.

When I made those remarks, the post-cold-war drawdown was mostly in front of us. Although it had started in 1987, the downsizing moved slowly at first and then halted completely for Desert Shield and Desert Storm.

Today, as I rise to review what has happened in the intervening 3 years, the downsizing is over 90 percent complete, and next year it will essentially be complete.

Let me begin by looking at the drawdown and how we did at meeting this enormous challenge. In the late 1980's, after the disintegration of the Warsaw Pact and the Soviet Union, it became clear that we could make significant reductions in the size of our Armed Forces. It was decided by the Bush administration and the Congress to reduce military personnel by approximately one-third over a period of 5 years.

As a nation, we had experience with large demobilizations after World War I, World War II, Korea, and Vietnam. This drawdown, however, was to be different. The United States had never before sought to downsize an all-volunteer force.

In those earlier reductions, our conscripted soldiers were more than happy to return to civilian life. In contrast, the men and women who had won the cold war had all chosen a military career and expected to be able to remain in uniform as long as they performed their duties well.

Under these circumstances, nobody in the Congress or in the Defense Department knew how the downsizing would turn out, and many were skeptical that it would turn out well.

A drawdown of this magnitude could easily have caused bitterness, skill gaps, stalled promotion opportunities, morale problems and could have created a hostile attitude toward the military across the society.

As we began to reduce the size of the force, some predicted that the best and the brightest would take the opportunity to get out of the service, leaving us with a less than ready military.

But Congress, two administrations, and the military leadership worked together to ensure that through the drawdown the force was carefully shaped to maintain quality and readiness.

We in the Congress provided creative tools, like early retirement and special separation benefits, which allowed the Pentagon to carefully shape the force and to address emerging problems as they occurred.

In this regard, each of the military services—and especially the Army—did a tremendous job in balancing the needs of current and future readiness with the imperative of easing in every way possible the transition to civilian life of those who would be leaving the service as a direct result of the drawdown.

Mr. President, the results are impressive:

The quality of our force is higher than at the start of the drawdown. The proportion of active duty enlisted personnel in the upper aptitude categories has increased from 56 percent in 1987 to 66 percent in 1995. Those in the lowest acceptable aptitude category dropped from 11 percent of the force in 1987 to just 6 percent in 1995.

Our force is more experienced, as measured by age and length of service. For example, the average age increased 1.4 years from 1987 to 1995 (to 28.7) and there are 45 percent fewer enlisted service members under age 22.

And, despite warnings that the drawdown would sacrifice the military's hard won gains for women and minorities, their representation has actually increased. The percentage of women in active service has increased from 10 percent to 13 percent. Total minority representation in the active force has increased from 27.4 percent to 30.5 percent. Minority field grade officers showed an even larger increase: from 7 percent of the total to 12 percent.

As we achieved these impressive results, we maintained our obligation to be fair to our soldiers, sailors, airmen, and marines. Only a very small number of service members were involuntarily separated to achieve our downsizing goals.

Let me repeat that, although over 1 million people have left the military during the drawdown, fewer than 2,000 service members were involuntarily separated. The Pentagon used tools such as the special separation benefit, provided by the Congress, to perform this miracle.

The Nation will be reaping the benefits of that accomplishment in recruitment and public good will for years to come.

We also took special care with the service members who had dedicated their professional lives to the military. In order to maintain an orderly flow through the ranks, we had to thin at all experience levels, including those with 15 to 19 years in the service.

Service members with this many years in uniform had made a long-term commitment to military, but had not yet reached the 20 years necessary for retirement benefits. In many cases their decisions to stay in the Armed Forces were predicated on being able to make it to 20 years to be eligible for retirement.

An easy approach would have been simply to dismiss these people—but that would have been short-sighted and, I believe, morally indefensible. However, using the early retirement program which I called for in 1992 and which became law in fiscal year 1993, we were able to keep faith with these patriots and save taxpayer money, too, by offering early retirement. Over 34,000 men and women have availed themselves to the early retirement option.

By shaping the force thoughtfully, we also maintained promotion opportunities that helped us keep the highly skilled and experienced service members we needed to retain.

In sum, the drawdown has been a real success. The credit for that success goes to those who administered this effort, to my colleagues and former colleagues in the Congress, to the leadership of the military services, and to the rank and file service members who have performed so brilliantly during this time of turbulence.

The second part of my call in January 1992, was to see that those departing the service were helped in their transition to the civilian economy. It would have been wasteful and wrong to send these people out into the job market with no guidance or support.

I am pleased to report that the military has used the programs created by the Congress to benefit departing service members on an unprecedented scale.

The effort begins 3 months before a service member leaves the military, when they are offered preseparation counseling. This includes information concerning relocation, employment issues, financial assistance, education and training benefits, health and life insurance rules, veterans benefits and assistance in developing individual transition plans.

The next step in preparing for the civilian job market is the transition assistance program workshop. Working in coordination with the Departments of Labor and Veterans Affairs, the Department of Defense has implemented transition assistance programs at some 200 sites in the United States, and more overseas.

Staffed by outplacement and employment experts, 330 transition sites worldwide provide intensive individual counseling to departing service members and their families. These programs teach resume writing and interviewing, provide information on the current job market and help the attendees understand how best to translate their military skills into skills needed in the civilian work force. The courses have also been put on video to accommodate the special needs of sailors deployed at sea for their last tour and those service members stationed at remote duty locations.

The rewards of this program can be seen with people like Jerry Sack. As Jerry was getting out of the Marine Corps in California, he had two dreams, to be a fireman and to move to Georgia, where his wife had grown up.

He said at the outset that he thought these twin goals were nearly impossible. But the transition assistance people worked intensively with Jerry on his resume, interviewing techniques, and job search strategies.

Then they gave him a lead on a civilian fire chief's job at the Marine Corps logistics base in Albany, GA. With the tap team's guidance, he hit the books to prepare for the interview. The team heard that Jerry got his dream job when he wrote back saying:

> Because of your staff, and only because of your staff, I was able to prepare myself personally and on paper to be selected for this position as fire chief.

The Department of Defense has also created an automated job matching system. Departing service members enter their resumes, skills, and job criteria and they can be matched with private employers who use the service free of charge. This system and a transition bulletin board maintained by DOD, is a great example of how the information super highway can be used to help veterans.

Here are just a few examples of the results of this system: a number of individuals have been placed with Infotec Corp. in Virginia helping to track down missing children; a dozen more are working as managers and line officers at the Indiana Department of Corrections; three were hired by Metropolitan Life Insurance; and the new engineering coordinator at Telspan International was hired through this system. And there are many more who have been hired as computer programmers, stockbrokers, and supervisors.

One satisfied employer who used this high-technology service wrote back saying, "the guys coming out of the military are our best workers."

That comes as no surprise to anyone here, but it is good to know the word is getting out to employers nationwide.

All of this has led to a much friendlier transition for many thousands of military families.

The best indicator of our success is that thousands of employers who hire veterans come back to hire more through the automated systems and job fairs. A healthy economy is certainly helping, but the transition programs are ensuring that people leaving the military can match their skill to high quality civilian jobs.

The heart of my challenge 3 years ago was to help departing service members use their skill and leadership abilities to address some of our Nation's pressing needs. The problems I talked about then are, unfortunately, still with us today including violence in the streets and a need for discipline and role models in our schools.

In the fiscal year 1994 Defense Authorization Act, we created a program within the temporary early retirement authority which encouraged retiring service members to enter public and community service employment.

Under this program, if an early-retiree takes a job in a critically needed skill area, he or she can accrue additional military retirement credit up to the 20-year mark.

Today almost 9,000 individuals who chose early retirement are working in public and community service positions and, as such, are earning additional credits toward their military retirement. This program has encouraged many of our former service members to use their talents to improve their communities.

There has been a big push lately for the Federal Government to help States and localities cope with crime. But in many ways, the quality of law enforcement will never be better than the quality of the front line police officers patrolling the street. That's why I suggested that service people, with their training to think on their feet and handle complex and dangerous situations, be encouraged to pursue a law enforcement career.

To this end, we authorized the Troops to Cops Program. A combined effort of the Departments of Defense and Justice, Troops to Cops will provide funds to local law enforcement agencies to offset the initial cost of hiring former service members as police officers. We may never have statistics on the number of crimes prevented or how much safer people feel as a result of having these highly-trained professionals on their local police force, but America will certainly be the better for it.

Perhaps the most successful community service initiative we established for people leaving the service is the troops to teachers program. This program provides stipends to assist people leaving the military in obtaining certification as elementary and secondary school teachers or teachers' aides.

In addition, it helps disadvantaged local schools that have a shortage of teachers and teachers' aides to hire

program participants. This program helps bring together one of our greatest national needs, tough but inspiring teachers for tough schools, with one of our greatest national assets the men and women trained and molded by the Armed Forces.

Departing service members placed in the troops to teachers program everywhere from South Carolina to New York are writing back to the Department of Defense, raving about the support they've gotten.

To date, 4,337 departing service members have been selected for the troops to teachers program; 1,482 are now in training programs leading toward the necessary certification. And over 800 former soldiers, sailors, airmen and marines are already in classrooms helping America's kids. This is a success story of the first order.

In sum, Mr. President, the post-cold war drawdown of our forces and the transition programs for departing service members are a case of government doing a job well. The Congress, the executive branch, and the uniformed military each did their part, and we all had the readiness of the force and the well-being of the service members in mind as we created and executed these policies.•

NAZI WAR CRIMES DISCLOSURE

• Mr. D'AMATO. Mr. President, I rise today to lend my strong support to H.R. 1281. This sense of the Congress measure is intended to act as a first step to urge several Federal agencies through the Freedom of Information Act, to open their files that contain information about individuals that are believed to have participated in Nazi war crimes.

This sense of the Congress measure stems from the efforts of Representative MALONEY of my home State of New York. Representative MALONEY propose H.R. 1281, a bill that would have amended the National Security Act of 1947, and required Federal agencies to make public under the Freedom of Information Act, all information regarding individuals who participated in Nazi War Crimes during World War II.

Mr. President, it is very important that we make a strong statement in this body that all the facts relating to the Holocaust be brought to light. I believe that it is our duty to never forget the millions of people who died in the Holocaust. Further, I believe we also have a duty to the survivors and victim's families to pursue every answer into this terrible period in the history of man. Yet, over 50 years have passed since the end of World War II and we still have many unanswered questions. Some of these questions can be answered with the cooperation of our own Federal agencies, but, some agencies have inexplicably blocked access to files and information that could help to shed light on the Holocaust and Nazi war criminals. These answers could help to provide piece of mind to millions of people around our country and around the world. Further, the release of these Nazi war crime files could provide historians with a more clear view of these horrible events over half a century ago, thus helping to ensure the despicable acts of the Holocaust are never repeated.

The survivors and victim's families have waited too long. The time to open the files is now, there can be no more excuses. I urge my colleagues to join me in this effort and ask for their support on this measure.•

TRIBUTE TO THE 1996 OLYMPICS GAMES

• Mr. ROCKEFELLER. Mr. President, this year marked the 100th anniversary of the Olympic games. As with any Olympiad, hard work, blood, sweat, and tears culminated in 2 weeks' worth of contested international sportsmanship. The best of America, and the world, competed for the thrill of victory again on American soil in Atlanta, GA. There, over 10,000 athletes from 197 countries were brought together—with the world watching—to witness 17 days worth of comradery, expectation, determination, triumph, and defeat.

I am proud that West Virginia played a key role in allowing the 1996 Olympic summer games to proceed. Two historical cities of my State, Wheeling and Martinsburg, hosted separate Olympic time-trial qualifying events for cycling. This was a first. West Virginia had never hosted an Olympic trials event. But our role contributed to the selection of the most superior men and women cyclists ever to represent the United States. For cycling enthusiasts, the eyes of the Nation were focused on these world-class riders. But they also witnessed the best attributes of my State—the beautiful outdoors, friendly people, culture, communities, and spirit that defines the proud residents of Appalachia.

The 1996 Olympic games, America's Games, began on July 19 when the Olympic torch entered Olympic Stadium. The torch carried a flame that had traveled from Athens, Greece, on an 84-day voyage to the United States host city. The flame represented both an ending and a beginning.

It symbolized an ending to the first 100 years of the modern Olympic games. Since 1896, we have seen our world savaged by wars, famines, Depression, and conflict. At times, it seemed unlikely that not much more than the spirit of the games would survive. But it did. Each and every time, the flame was relit—its message of hope and strength brought the world together through the efforts, the joys, and the sorrows of individual athletes.

We shall celebrate the almost miraculous accomplishments of American sprinter Jesse Owens, setting record after record in Nazi Germany while the crowds cheered him to victory. And the tenacity of the Philadelphia butcher's apprentice, Smokin' Joe Frazier, who struck heavyweight gold in Tokyo even though he had a broken right hand. How about American Bob Beamon's incredible 29-foot 2½-inch performance in the long jump in Mexico City, the longest Olympic record to ever stand. Swimmer Mark Spitz, who owned the press of the first half of the Munich games by dominating seven events. A personal memory I will always have concerns the perfect gymnastic performances of Mary Lou Retton, a Fairmont, WV, native, who in Los Angeles won the women's all-around. I will also never forget one of the most touching images of will and determination ever to occur at the games. This was showcased in Barcelona when Derrick Readman of Great Britain fell in the 400 meter competition after severely pulling a hamstring and finished the race leaning on his father. These are all old, but cherished memories.

The torch also symbolized a beginning, the beginning of the next centennial in Olympic history. The challenge is set in the new centennial to rekindle the two basic values that are at the core of the Olympic movement. One is the competitive fire that spurs individuals to pursue excellence in their sport and demand the best of themselves. The other is the cooperative spirit that tempers individual competition through teamwork, harmony, and understanding.

I think the 1996 Atlanta games has led us into the next centennial quite well. As host, the city translated its confidence in itself into respected internationalism. It helped guide us all once again across every barrier of race, creed, language, and culture to seek a common ground of understanding sportsmanship. This was not without cost, but the city and Olympic officials responded to the needs of athletes, coaches, spectators, tourists, and residents with swift action. They also continued to profile veteran competitors and fresh faces who embody the Olympic motto of Citius, Altius, Fortius—swifter, higher, stronger—and the epitome of excellence. People such as Michael Johnson, Kerri Shrug, members of the dream team, Dan O'Brien, Janet Evans, Tom Dolan, Jackie Joyner-Kersee, West Virginian Randy Barnes, Carl Lewis, Mia Hamm, and Gwen Torrence immediately spring to mind. They proudly represented the strong heritage and the competitive nature encompassed in the Olympic spirit, and I commend them and every other Olympian who has ever dared to follow a dream to be the best.•

DEFENSE OF MARRIAGE ACT AND THE EMPLOYMENT NON-DISCRIMINATION ACT

• Mr. ABRAHAM. Mr. President, I rise to discuss the Defense of Marriage Act and the Employment Non-Discrimination Act, voted on a few weeks ago. The former passed overwhelmingly in both the House and the Senate and the latter was rejected in the Senate and not voted on in the House. I voted for the Defense of Marriage Act and against the Employment Non-Discrimination Act. I would like to explain why I did so, and why I believe passage of DOMA and the failure of ENDA were proper.

In enacting Federal legislation, I believe our first consideration should always be whether a Federal solution both legitimate and necessary. Legitimate; that is, under our Constitution's allocation of powers between the national government and the States. Necessary in the sense that the States cannot solve a particular problem on their own.

Using these criteria, the Defense of Marriage Act is a limited, legitimate, and needed Federal intervention to protect the States' ability to set their own policies regarding single-sex marriage. By contrast, the Employment Non-Discrimination Act would have imposed a one-size-fits-all solution governing employment discrimination on the basis of sexual orientation without any clear and convincing showing that there is a national problem in this area. In addition, ENDA would have adopted measures far too sweeping even on the hypothesis that some national legislation was needed.

Consider first the Defense of Marriage Act, which dealt with whether the States' have an obligation under Federal law to recognize single-sex marriages. Not, it is important to understand, whether States may recognize such marriages under their own laws. DOMA leaves the States entirely free to do so or not as they may please. In fact, it leaves the States entirely free, through their legislatures or their courts, to define marriage in any way they choose.

DOMA deals only with the following issue: If State A decides to allow people of the same sex to marry, does Federal law require State B to treat these individuals as married as well if they decide to move to State B? DOMA answers that question in the negative: No, Federal law does not require State B to treat them as married just because State A chooses to do so.

This is not merely a hypothetical question. In fact, the Supreme Court of Hawaii has already strongly hinted that in its view the Hawaii Constitution requires recognition of same-sex marriages, with a final ruling to that effect from a lower Hawaii court expected any day now.

The extraterritorial effect such a ruling must receive is a quintessentially Federal matter. Indeed, even if Congress had done nothing, whether the other 49 States would have to treat individuals of the same sex married in Hawaii as married outside of Hawaii would still have been decided by Federal law. Although no State has yet recognized same sex marriages, all 50 States generally recognize marriages performed in another State, largely on account of Federal conflict of law rules and the Federal Full Faith and Credit Clause. Without any congressional legislation, whether the States would also be required to recognize same-sex marriages contracted out-of-state would likewise have turned on these Federal laws, and therefore, only Federal legislation can assure the States will be permitted to decide this issue for themselves.

Additionally, some States, including my own home State of Michigan, have recently enacted laws explicitly refusing to recognize same-sex marriages contracted in other States. Whether these laws would be allowed to stand likewise would have been a Federal issue even in the absence of any action by Congress. The courts, including, ultimately, the U.S. Supreme Court, would have either enforced these exceptions as being consistent with the Federal Constitution's Full Faith and Credit Clause or would have struck them down pursuant to that Clause.

Thus it is very hard to see how congressional action to make clear that other States need not recognize a same-sex marriage simply because it was recognized in Hawaii can possibly be cast as an illegitimate intervention by the National Government. The National Government necessarily has to choose sides, either to say that the Hawaii view shall prevail in all 50 States, or that it need not do so, or that it shall do so in some instances. How it chooses sides is the only open question. The Federal Government will either resolve this issue by means of a statute adopted by a Congress elected by the people of the States and signed into law by the popularly elected President or by means of a U.S. Supreme Court decision applying existing Federal conflict-of-law principles and the Federal Constitution's Full Faith and Credit clause as best it can. But in any event, the Federal Government will be resolving what effect these marriages will have outside of Hawaii.

That being the case, it is clear to me that there is no reason to prefer that this decision be made by the Federal courts than by the democratically elected components of the Federal Government. Rather, it is better for this choice to be made by the democratically elected branches—that is, by Congress and the President.

Having established that the decision at issue—the extraterritorial effects of Hawaii's laws—is inevitably one that must be made by the national Government, and one that should be made by that Government's elected rather than life-tenured officials, the question that remains to be decided is the bottom line: should other States be required by Federal law to recognize single-sex marriages if one State decides to do so, or shouldn't they? It is clear to me that the choice most consistent with principles of federalism is to specify that the other 49 States will not be required to follow Hawaii's lead. That again is what DOMA does. My colleagues who have argued that federalism counsels against congressional action are missing the obvious. The virtues of a federalist system—permitting experimentation among the States, and recognizing differing values and standards in different communities—are plainly best served by making clear that the other States need not recognize same-sex marriages entered into out of State. It is Congress's failure to act to make this clear that could well result in significant Federal intrusion into this State matter by allowing the Federal courts to impose Hawaii's answer on the other 49 States. By enacting DOMA, this Congress left each of these States free to decide for themselves whether to recognize such marriages or not.

Some DOMA opponents argue that such a congressional resolution of this matter is unconstitutional because it violates the Full Faith and Credit Clause. They are wrong. That Clause expressly permits the Congress to specify whether and to what extent particular State statutes and judgments shall receive extra-territorial effect. The Full Faith and Credit Clause states, in full:

> Full Faith and Credit shall be given in each State to the public Acts, Records, and Judicial Proceedings of every other State; And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

The Full Faith and Credit Clause explicitly gives this Congress the authority to prescribe the "effect" of a State's public acts, records, and judgments. As Prof. Michael McConnell of the University of Chicago Law School, has persuasively argued, this includes the authority to prescribe no extraterritorial effect to a particular category of a State's public acts, records, and judgments. This also serves what is often said is the purpose of the Full Faith and Credit Clause—above all—to preserve harmony among the States. By allowing the States to make their own judgments about same-sex marriages, DOMA does just that. Indeed, the courts have found that the States have some retained authority along these lines under the public policy exception to the Full Faith and Credit Clause—even in the absence of an Act of Congress. Congress surely has

the power to reinforce the court-created public policy exception to the Full Faith And Credit Clause.

And that is all the Defense of Marriage Act does, by providing that:

No State, territory, or possession shall be required to give effect to any public act, record, or judicial proceeding of another State, territory, or possession respecting a relationship between persons of the same sex that is treated as a marriage.

In short, DOMA does not prohibit States from adopting laws permitting same-sex marriages; it does not require them to do so. Hawaii remains entirely free to continue on its own path, as does Michigan. The only effect DOMA will have on the States is to prevent what the courts might otherwise find to be the possibly constitutionally-compelled result that every State recognize same-sex marriages contracted in another State, where such unions are permitted. By simply stating that the Federal Full Faith and Credit Clause does not require the States to recognize same-sex marriages, DOMA leaves the States free to recognize them or not recognize them as they see fit.

This is completely different from the Employment Non-Discrimination Act, to which I will now turn.

Right now, the States are free to have or not have their own laws prohibiting discrimination in employment on the basis of sexual orientation and their own means of enforcing these laws. Nine States have them, forty-one do not.

If this Congress had adopted ENDA, we would have ended State experimentation and forced one uniform solution—punitive damages and all—onto every State. Rejecting ENDA is the choice that leaves the States free to adopt whatever policies they choose. Thus, from a federalism perspective, ENDA was an intrusion on the States' ability to make choices, whereas DOMA was a device for facilitating State-choice.

That is not to say that ENDA would necessarily be wrong for that reason. Sometimes national solutions are precisely what are called for to address a problem the States cannot solve on their own. But that is not the case here. The need for a national law such as ENDA has yet to be demonstrated. I am not suggesting that there are not problems—I don't know if there are. But neither do my colleagues. There have been no hearings, no testimony, no reports on the reason for national legislation on this matter.

According to estimates published in Harpers magazine and the Personnel Journal, the average annual income for gays and lesbians is about $36,000, compared to about $18,000 for the population at large. The average household income for gays and lesbians is estimated at $47,000, also substantially above the average household income for the general population. The study reported on in the Personnel Journal also found that gays and lesbians are more than twice as likely to hold managerial or professional positions than heterosexuals.

Does this prove that there is no discrimination on the basis of sexual orientation in the work force? Of course not. There may be a serious problem here—but we just don't know. Moreover, if there is, a number of States have adopted antidiscrimination laws. I would like to know what gave rise to them, what they provide, how they compare to what is being proposed here, and if they are leading to less employment discrimination based on sexual orientation in the States that have them than exists in the States that do not.

It also ought to be noted that the Employment Non-Discrimination Act would have effected a major change in this country's civil rights laws. For the first time, a characteristic strongly related to an individual's behavior would effectively have the legal status of a characteristic like an individual's race or gender. This is an enormous and unprecedented expansion of the civil rights laws. Arguing against gays in the military, Colin Powell said:

Skin color is a benign, non-behavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument.

We need to think much harder than we have about this before embarking on a change of this magnitude.

Finally, even if I were persuaded that we needed a national law on this matter, ENDA went much, much too far. In particular, it would have forced organizations charged with the care of children to hire, retain, and promote individuals without regard to sexual orientation. It would have imposed the same obligation on many religious organizations, irrespective of their religious convictions. I think even many who believe we should pass some kind of law in this area would rightly be hesitant to cover entities of these types with the first national law adopted on this subject.

First, as to organizations that work with children. ENDA would have forbidden discrimination in employment on the basis of sexual orientation by any employer with 15 or more employees. This would include not only large corporations that sell their products to adults, but also public schools, private schools, day camps, child care and foster care centers, baby sitting agencies, and a large number of other institutions. There is not even a weak argument to the contrary since despite the protestations of the bill's proponents, ENDA contained no private organization exception.

ENDA also would have applied to the hiring decisions of the Boy Scouts, the Girl Scouts, and other, similarly-situated organizations. Proponents of the act claimed otherwise, relying on ENDA's exception for bona fide private membership clubs. The Boy Scouts and the Girl Scouts, however, are extremely unlikely to qualify—the same private club language in other statutes has generally been interpreted to mean truly small and exclusive societies. Even some exclusive, members-only clubs with secret membership committees have been sued by the EEOC as falling outside the exception. The only contrary authority is a Federal court decision whose holding is that the Boy Scouts do not constitute a place of public accommodation under Title II of the Civil Rights act—in other words, the cited case really stands only for the proposition that the Boy Scouts are not a restaurant.

In addition to covering a variety of children's organizations, the act would also have applied to a large number of religious organizations. While the bill appeared to include an exception for them, it defined the term "religious organization" so narrowly as to exclude a wide array of religious organizations and activities. "Religious Organization" was defined to mean only:

A religious corporation, association or society; or

A religious school if the school is owned, controlled, managed, or supported by a religious corporation, association or society—or the school's curriculum is directed toward the propagation of a particular religion."

Even then—the religious organization's for-profit activities would have been subject to the bill's prohibitions.

Under this definition, the hiring decisions of religious radio stations and bookstores—which are not religious corporations—religious pre-schools—which are not religious schools—and religiously affiliated colleges that are not divinity schools and are not controlled or supported by a religious corporation would have been covered. Even churches' and religious schools' decisions to hire individuals to sell books or church or school memorabilia would have been covered if those activities were conducted for profit. This, of course, on top of the fact that as I explained earlier, the hiring decisions of non-religious entities involving kindergarten teachers, camp counsellors, Little League coaches, Day Care Centers, or Boys Town counsellors would have been covered by the Act.

Given the novelty of any kind of prohibition of discrimination on the basis of sexual orientation, it seems to me that the bill's coverage surely should have been significantly narrower.

Finally, even if these problems could have been solved, there is a serious risk that covered entities would be subject to harassing lawsuits under this bill by any individual dissatisfied with an employment decision. Since sexual orientation isn't subject to easy proof,

being a state of mind—unlike gender or race—ENDA would have allowed anyone with a job where 15 or more people are employed—or applying for such a job—to sue for perceived employment discrimination on the basis of sexual orientation. Even employers found innocent of either knowing or caring what an employee's sexual orientation is, would potentially be saddled with expensive and time-consuming lawsuits defending themselves. Thus—irrespective of its necessity—the specific legislation at issue was overly-broad in scope and virtually impossible to apply as intended.•

UNITED STATES POLICY TO EGYPT

• Mr. SIMON. Mr. President, I have visited Egypt and other nations in the Middle East several times. Egypt is playing a key role in the peace process. As former Secretary of State Henry Kissinger said, "Without Egypt, there is no war, without Syria, there is no peace." A strong and healthy Egypt that has an open and peaceful relationship with Israel and its neighbors is a key to ensuring stability in the Middle East.

Former President Anwar Sadat and the current President, Hosni Mubarak, have helped develop a vibrant and growing Egypt and secure an enduring stable peace with Israel. Under President Sadat, Egypt became the first Arab nation to make peace with Israel. Making that peace allowed Egypt to concentrate on other domestic priorities and Israel's other neighbors to become accustomed to the notion of peace with Israel. And, even after his death, President Sadat's dream of an expanded peace in a more stable Middle East began to take greater shape.

President Mubarak continued Sadat's rapprochement with Israel and helped contribute to plans for establishing a Palestinian homeland. He also worked for greater dialog with Israel and other Arab nations that remained technically, at war with Israel. In light of Egypt's precarious position, though, President Mubarak has been under immense pressure from domestic as well as international forces.

Since 1992, the Government has been under attack from an Islamic guerrilla group that has committed several acts of terrorism. In response, the Egyptian Government has for the past 4 years resorted to military tribunals, whose methods and procedures are often unfair, to try Islamic militants, as well as moderate political opposition members. Egyptians have also been illegally detained and allegedly tortured while in police and military custody. While Egypt's human rights record is not as bad as most nations in the region, I am still concerned.

I am also concerned that too much of U.S. foreign aid to Egypt goes to the military. Egypt's unemployment rate is over 17 percent, almost 50 percent of its people live at or below the poverty line, and pollution remains an intractable problem. The United States can help Egypt more effectively by putting less emphasis on military aid, and more on economic aid so that Egypt can invest in its infrastructure, worker training, and education.

Egypt, as a leader in the Arab world, sets an example for other nations to follow. It cannot remain a stabilizing force if its military grows, while its economy suffers and its own citizens are mistreated and jailed without trial or thorough investigation. Fighting terrorism does not have to lead to abrogation of civil liberties. As I approach my return to academia, I will continue to encourage ways for the United States-Egypt partnership to achieve greater peace and stability in the Middle East.

Mr. President, we must recognize that a stable and secure Egypt is good for peace in the Middle East. It is in the United States best interst to see a democratic Egypt with human rights observed.•

SCOTT CORWIN

• Mr. GREGG. Mr. President, I rise today to make a difficult statement. Scott Corwin will be leaving the Appropriations Committee staff at the end of this Congress to return to his home State of Oregon.

Since taking over the chairmanship of this subcommittee a year ago, I have come to rely on Scott's advice and counsel. He has worked long hours under difficult circumstances to meet what many would view as impossible deadlines—and he met them all. He handled controversial issues fairly and directly.

I appreciate Scott's hard work, and I admire his dedication to public service. Although we will miss Scott, I am sure that Senator HOLLINGS and Chairman HATFIELD will join me in wishing Scott and his new bride Kristen well in their future together.•

A CALL FOR JUSTICE: SUPPORT THE INTERNATIONAL WAR CRIMES TRIBUNALS

• Mr. PELL. Mr. President, as I look back over my years of service here in the Senate, I am struck by how much international relations have changed and how much they have stayed the same. In just the last few years, we have witnessed the dramatic end of the cold war and a wave of democracy spreading around the globe from the Republic of China on Taiwan to the newly established countries in Eastern Europe. Advances in technology have opened new channels of communication between people of different cultures and languages. Economic development, investment and trade have become major factors in bilateral relationships. And in unprecedented fashion, the international community has reached consensus on the need to reduce nuclear weapons, to protect the environment, and to promote international peace and security.

Yes some things have not changed since my arrival in the U.S. Senate. The world is still plagued with civil wars. Children continue to lack access to basic health care and immunizations. And despite the lessons learned from the horrible atrocities that took place under the Nazi regime in World War II, we have failed to stop genocide and ethnic cleansing from occurring once again. In wars that have ravaged both the former Yugoslavia and Rwanda, aggressors have flown in the face of international law and committed the gravest crimes against humanity. If we in the international community are determined to learn the lesson this time, we must support the work of the International War Crimes Tribunals. The work of these tribunals is critical in the effort to establish genuine and long-lasting peace in war-torn areas around the globe.

Created by the United Nations Security Council, the current two war crimes tribunals seek to find justice for the victims of genocide and other war crimes that took place in the former Yugoslavia and in Rwanda. After witnessing the brutality of the wars in these two regions, the international community seized the opportunity to once again publicly prosecute and punish the planners and executioners of the genocide. The tribunals at Nuremberg after World War II have served as an important precedence for the current tribunals. The trials at Nuremberg were the first time that the international community recognized some crimes as so heinous that all states have the right and responsibility to prosecute the offenders. I am proud to say that my father, the late Herbert C. Pell, a former congressman from New York City, was President Franklin Roosevelt's representative to the U.N. War Crimes Commission which established the Nuremberg Tribunals. It is a tragedy that today there is once again a need for these tribunals to punish those who commit atrocities and other crimes against humanity.

The task confronting the two war crimes tribunals is immense and complex. In both the former Yugoslavia and in Rwanda, U.N. investigators are struggling to collect documentation and eyewitness accounts of the murder, rape, ethnic cleansing, and other horrible crimes that were committed during those violent conflicts. But despite the difficulties encountered in trying to amass evidence and to arrest the accused, the international community has recognized that the work of the tribunals is critical to finding a long-

term solution to the conflicts in both Bosnia and Rwanda. Unless the perpetrators of the genocide are held accountable for their actions, the cycle of violence will not be broken and could start once again in either country. Equally alarming, unless the international community decisively condemns these crimes, others may be encouraged to commit similar acts without fear of retribution.

The significance of the war crimes tribunals has been emphasized most compellingly by the head prosecutor of the tribunals, Justice Richard Goldstone. In a recent statement to the Canadian Bar Association at the eleventh Commonwealth Law Conference, Justice Goldstone noted that:

> Without meaningful justice, there cannot be enduring peace in either the former Yugoslavia or Rwanda . . . it is surely unrealistic to expect the survivors to forget and forgive—to accept blanket amnesties and impunity for those most responsible . . . Accountability is essential if the hated is finally to come to an end.

Mr. President, I would like to submit a copy of Justice Goldstone's address for the RECORD.

As the head prosecutor for both tribunals, Justice Goldstone has placed an indelible mark on the course of international human rights law. Under his tenure, the Yugoslav tribunal has indicated 76 persons, and the Rwandan tribunal has indicted 19. Despite constant frustrations caused by insufficient resources and communications problems, the tribunals are setting important legal precedence for prosecuting those who commit appalling atrocities in the name of conventional warfare. It is truly a testament to the legal, diplomatic, and political skills of Justice Goldstone that so much progress has been made. With this in mind, I would like to note my own deep regret that Justice Goldstone will be leaving the tribunals at the end of this month to return to South Africa and a seat on its constitutional court. Over the last few years, I have had the privilege of meeting with Justice Goldstone on several occasions, and I found him to be an eloquent and influential spokesperson for the tribunals. He will be sorely missed, but I will join with many others in expressing my high expectations for his successor, Louise Arbour. We look forward to seeing the work of the tribunals continue with the same high caliber of leadership set by Justice Goldstone.

Clearly this is a critical time for the war crimes tribunals. Now more than ever, the international community must renew its commitment to the tribunals so that the progress accomplished thus far is not lost. The hard work of Justice Goldstone, and of the prosecutors, justices, and staff, certainly merits greater financial and political support from all U.N. member states. The victims who have survived the genocide and other horrible crimes are looking to the tribunal to see justice handed down. We must ensure that the tribunals are given the resources and political will to achieve their mandates. That is why I strongly supported the Clinton administration's efforts to establish the Yugoslav and Rwandan tribunals through the United Nations. And this year, I joined my colleagues in supporting a provision of the fiscal year 1997 foreign operations appropriations bill to provide $25 million of U.S. financial support to the tribunals. Of course, U.S. support alone is not enough. But through the contributions and cooperation of all states, the international war crimes tribunals will work to ensure that the human rights of all people are protected under international law.

Justice Goldstone's address follows:

PROSECUTING WAR CRIMINALS

Almost a year ago, in Ottowa I was invited to address the Conference of Commonwealth Chief Justices and International Appellate Judges on the work of the UN International War Crimes Tribunals. It was extremely encouraging that the subject of the prosecution of war crimes found a place on the agenda. It is no less encouraging that almost a year later, at this important Conference, the subject is again receiving attention.

Before the Nuremberg and Tokyo Trials, the prosecution of war criminals would universally have been considered to be of national and not international concern. Victims of war crimes had recourse only to national courts which had jurisdiction over the perpetrators. States whose forces were responsible for the crimes seldom, if ever, prosecuted their own combatants. That state of affairs was changed by the Nazi Holocaust. It was that affront to human dignity which led to the internationalisation of humanitarian law. The recognition by the international community of the concept of a crime against humanity was the essential key to international jurisdiction. There were crimes so evil and so over-reaching that it was the right and the duty of all of humankind to try, and if found guilty, punish the perpetrators. There was, in short, universal jurisdiction. It was that recognition that provided the moral and legal underpinning for the conferment of jurisdiction to punish perpetrators outside the country where the crimes were committed or where the accused happened to be found.

At the time of the establishment of the United Nations, it was widely assumed that an international criminal court would be set up. Indeed, there was an express reference to such a court in the 1948 Genocide Convention. But it was not to be. States were too jealous of their own sovereignty even to allow their citizens to be surrendered to an international jurisdiction even for the most serious war crimes. Alas, there was no court before which Pol Pot, Saddam Hussein and other post-World War II genocidal leaders could be prosecuted.

The establishment by the Security Council of the International Criminal Tribunal for the former Yugoslavia came as a surprise. It was generally accepted by the experts that an international criminal court would have to be established by treaty. It had never been seriously contemplated that such a court would be established as a measure which could assist in the re-establishment of international peace and security. It was that determination, under Chapter 7 of the UN Charter, that gave the Security Council the power to take that step. It was that act and the subsequent establishment of the Rwanda Tribunal that have drawn wide attention to the global dimensions of justice. In the case of both tribunals, the Security Council made a determination that the widespread and systematic atrocities perpetrated in both countries constituted a threat to international peace and security. That, in itself, was significant, because it was the first time that the linkage had ever been made by that body. Even more significant was the consequential decision that bringing to justice the individuals responsible for those violations was an appropriate response to that threat. The linkage between justice and peace in the international arena was born.

Notwithstanding that action by the Security Council, there have been serious challenges to the concept that peace and justice not be in opposition to each other. There were, and still are, those who argue that the establishment of the Tribunal for the former Yugoslavia would derail any nascent peace process. Just recently, an anonymous article appeared in the 1996 Human Rights Quarterly published by The Johns Hopkins University Press, in which the author wrote:

"Targeting violators of human rights and bringing them to justice is essential. Accusation, however, comes more easily than making peace. The quest for justice for yesterday's victims of atrocities should not be pursued in such a manner that it makes today's living the dead of tomorrow. That, for the human rights community, is one of the lessons of the former Yugoslavia. Thousands of people are dead who should have been alive—because moralists were in quest of the perfect peace. Unfortunately, a perfect peace can rarely be attained in the aftermath of a bloody conflict. The pursuit of criminals is one thing. Making peace is another."

This debate over the potential of the Tribunal to destabilise the peace process was particularly intense just before the negotiations at Dayton. More particularly, there were those who argued that it would be impossible to negotiate a peace agreement in circumstances where the leaders of a principal party were under indictment for war crimes. Radovan Karadzic and Ratko Mladic were, of course, at the centre of that concern. The implication was that peace would require the sacrifice of the laudable but unrealistic objective of pursuing justice. Happily the cynics have been proven wrong. Notwithstanding the indictment twice over both Karadzic and Mladic, the peace agreement was signed in Paris and its military objectives have been successfully carried out by IFOR. I have no doubt that it those alleged war criminals had been present at Dayton no agreement would have been reached. And, if they had been allowed to stand for election next month that election would not take place. Certainly, the Muslim leaders would not consider participation.

The position with the Rwanda Tribunal is somewhat different. In the first place, it was established by the Security Council at the request of the Government of Rwanda—the Government whose forces brought an end to the genocide of mid-1994. The leaders who were responsible for the organisation of the atrocities leading to the murder of about one million people had fled the country. They are not amongst the estimated 70,000 people who are today being kept in atrocious prison conditions in Rwandese prisons. They have moved to other countries in Africa, Europe and North America. Some of them took

much of wealth of Rwanda with them. For these reasons, in particular, it is appropriate that there is an international tribunal. Few countries are likely to be willing to extradite persons to Rwanda before that country's criminal justice system has been re-established and it has reasonably acceptable prison conditions.

The Rwanda Tribunal was established at the end of 1994. It took many months to staff an office in very difficult conditions in Kigali. It took the UN Headquarters eleven months to appoint a Registrar for the Tribunal at its seat in Arusha in Northern Tanzania. The first cells there were only completed two months ago. At the time of writing this address seven indictments have been issued. Three of those indicted have been transferred from Zambia to the Tribunal in Arusha. They have made their initial appearances and the first trial is about to begin. Apart from the persons already indicted, provisional charges have been brought against four persons held in The Cameroons. They are expected to be transferred to Arusha in the coming days. They include Colonel Theoneste Bagasora, against whom we have evidence that, as chief of the Cabinet of the Ministry of Defense at the time the genocide began, he was one of the central persons responsible for the atrocities which followed. Another was one of the senior directors of the radio station, Radio Milles Collines, that spewed out hateful propaganda which was so important a weapon in the hands of the perpetrators.

I have no doubt that without meaningful justice, there cannot be enduring peace in either the former Yugoslavia or Rwanda. Where peoples have witnessed and suffered mass systematic murder, rape, torture and other unspeakable atrocities, and where millions have been displaced, it is surely unrealistic to expect the survivors to forget and forgive-to accept blanket amnesties and impunity for those most responsible. Such a policy would inevitably perpetuate the cycles of violence which have marked the recent histories of both Rwanda and the former Yugoslavia. Accountability is essential if the hatred is finally to come to an end-there is no substitute for avoiding collective guilt upon which genocide feeds. In short, without effective justice, there is little hope for an enduring peace in societies suffering the aftermath of gross human rights violations.

Unfortunately, notwithstanding the remarkable and praiseworthy efforts of the Security Council, we are still a long way from effective international criminal justice. The failure by the Implementation Force (IFOR) to go out and arrest those indicted by the Yugoslav Tribunal is a matter for deep regret. The 60,000 strong force undoubtedly has the capability to do so, Under the Dayton Agreement it has the legal right to do so. The fault lies not with the IFOR commanders but with their political bosses. Their policy is not to risk the lives of members of IFOR. But what are there for. As their name proclaims, they are there to implement the Dayton Agreement-but in this important respect they are being precluded for doing so. As is well known, the policy of the North Atlantic Council is that only those who literally fall into the hands of the IFOR soldiers will be arrested. It should come as no surprise that not one arrest has taken place since the IFOR troops first entered Bosnia Herzegovina at the end of last year. And, if the policy is not changed none is likely to be made. Far from endangering what may be a fragile peace in Bosnia, the arrest of some of the leading Serb and Croat indicated war criminals would have avoided many of the recent difficulties of Mr. Carl Bildt and the OSCE election organizers. It would have avoided the unfortunate spectacle of Mr. Karadzic making fools of some international leaders. That policy is also calculated to undermine the credibility not only of the international community but also of the Tribunal and international justice itself in the long term, this could create a disastrous precedent for the future exercise of international criminal jurisdiction.

The establishment of the two ad hoc tribunals for the former Yugoslavia and Rwanda has to be understood in a broader context. Even their most ardent supporters would not suggest that the response by the Security Council to two specific instances of humanitarian law violations is a satisfactory solution to the problem of world-wide massive war crimes. Many people question, with justification, why we are investigating and prosecuting violations in the former Yugolslavia and Rwanda and not similar shocking conduct in other parts of the world. It is disciminatory, and worse, the decision as to where such atrocities should be prosecuted is a political one taken by a political body-the Security Council. It is hardly fair or just that, by definition, war crimes committed by a permanent member of the Security Council, or by a country protected by such a member, would never be the subject of the exercise of that power. That notwithstanding, the establishment of the two tribunals is a significant step in the direction of having a permanent and independent international criminal court To the extent that they are successful, they will hasten that development. And, if we are unsuccessful in The Hague and Kigali, we will retard that process. It is for that reason that those of us involved in this process are so concerned when the international community fails adequately to support and protect a judicial body created by it.

On the more positive side, we have accomplished far more than many informed observers anticipated when the two tribunals were established. The Yugoslav Tribunal has issued 16 indictments in which some 76 defendants have been named. One of them, Erdemovic, a former member of the Bosnian Serb Army, recently pleaded guilty to crimes against humanity. He was involved in the murder of innocent Muslim civilians in the vicinity of Srebrenica in July 1995. He accepted responsibility for shooting at least seventy of the many hundreds who were killed. At this time he has not yet been sentenced by the trial chamber. Apart from Karadzic and Mladic, other leaders indicted Dario Kordic, the former vice-president of the self-proclaimed Croatian Republic of Herceg-Bosnia and Milan Martic, the "President" of another self-proclaimed Serb Administration in Knin prior to its destruction last year by the Croatian Army. The most recent indictment relates to the town of Foca in Bosnia Herzegovina. The charges arise out of the systematic rapes and sexual assaults perpetrated against the female population of that town by members of the Bosnian Serb Army. At present we have seven of the indictees in our custody, but alas, none of the leaders to whom I have just referred.

The trial of Dusko Tadic, which began many weeks ago, is likely to be followed by that of Tibotil Blaskic, a Croatian general, who voluntarily surrendered himself to the Tribunal to stand trial. He is the former regional commander of the Croatian Defense Council in the Lasva River Valley area of Bosnia Herzegovina, and was subsequently promoted to the Chief of Staff of the Mostar Headquarters of the HVO. He has been indicted on charges of crimes against humanity and grave breaches of the Geneva Conventions.

We have also brought a number of reconfirmation hearings where indicted persons have not been arrested and surrendered to the Tribunal. In these proceedings, the Prosecutor is able to present, in public, some of the evidence in support of the indictments. This is not a trial in absentia but a proceeding designed to enable a trial chamber to issue an international arrest warrant. The most recent proceeding of kind was that against Karadzic and Mladic and resulted in the issue of such warrants against both of them. Having regard to the evidence led it is even more difficult to accept the supine policy of the leading western nations with regard to their apprehension and surrender to the Tribunal.

This is an important time in the lives of both tribunals. The financial crisis of the United Nations has made our progress very difficult. We have constantly been underresourced. Without the generosity of a number of governments, and particularly the United States and The Netherlands, we would not be at the trial stage in either The Hague or Arusha. I have already referred to some of the credibility problems facing the Yugoslav Tribunal. If the people we indict are not brought to trial then we will not be able to fulfil our mandate. In particular, we will be seen to have failed by the victims themselves. The Security Council undoubtedly raised their expectations in establishing the Tribunal for the former Yugoslavia and endowing it with peremptory powers under the UN Charter. It sent a message to those victims that the international community had taken notice of what they had suffered and that message carried with it the promise that some justice would be afforded them. Their expectations were again raised when, from time to time, the Tribunal issued indictments. Imagine their frustration when they heard and read that IFOR would not be permitted to take the risk of seeking to arrest those indicted. Imagine their frustration when Karadzic and Mladic continue to flaunt the terms of the Dayton Agreement. Whether the elections are able to take place in a reasonably free and fair atmosphere still remains to be seen.

In Rwanda the problems are different and no less serious. Two years after that country was destroyed by its then genocidal rulers, its criminal courts are still not functioning. The frustration of the members of its present government cannot be exaggerated. Not the least of their frustrations is what they understandably regard as an unacceptable delay in the International Tribunal becoming operational. Then, there is the unfortunate imbalance by reason of the Rwandan Law recognizing death sentence while the International Tribunal has no such power. Add to this the recent wish of the Rwandese Government wishing to try leading members of the former government in Kigali and the clash between that wish and the Tribunal legitimately exercising its right of primacy and insisting on the leaders being tried in Arusha. Finally, there is the disturbing fact that the Rwanda Tribunal has increasingly become forgotten by the Western media. This may change when the trials are under way.

I hope that I have said sufficient to bring to your attention some of the positive and some of the negative features which have

emerged in consequence of the establishment of the two tribunals. Without strong public pressure in a number of countries they would certainly not have come into being. Without continued pressure they will not succeed. It is for that reason, in particular, that I am grateful for this opportunity to bring to your attention some of the important issues relating to the future of the tribunals. Not only are they important for the victims. If they succeed they can also provide a powerful deterrent for the future. Your support for the work of the tribunals and for a permanent international criminal court is of cardinal importance.•

TRIBUTE TO BARBARA SHEFFIELD

• Mr. BOND. Mr. President, I rise today to pay a special tribute to Ms. Barbara Sheffield. It is a great pleasure to recognize Ms. Sheffield for her many years of loyal service to the General Services Administration [GSA], Heartland Region. Many Missourians have truly benefitted from her life-long dedication as a Federal employee.

Barbara Sheffield joined the GSA on January 23, 1963, as a GS–3 card punch operator with the Department of Veterans Affairs Hospital in Kansas City. Distinguished by her cheerful and efficient demeanor, she was quickly promoted, and eventually moved into a GS–7 position as inventory management specialist for the Veterans' Administration.

In 1976, Ms. Sheffield took a short break from her career, and in December of the same year, she resumed her employment with GSA as a temporary GS–4 clerk typist. Starting over did not deter her, and Ms. Sheffield's commitment to serving others carried her through an ensuing 20 years with GSA. Since 1979, she has worked as a GS–12, Congressional Liaison Specialist, working with congressional clients, setting up disaster field offices and maintaining a host of other special projects.

Ms. Sheffield's inestimable contributions and respected professional experience will be sorely missed when she retires from GSA on January 3, 1997. I wish her the best of luck in all of her future endeavors and continued good health and happiness.•

FRANK M. GRAZIOSO

• Mr LIEBERMAN. Mr. President, I rise today to honor Frank M. Grazioso, who has been selected by the Connecticut Grand Lodge Order Sons of Italy of America to be the recipient of the "Good Citizen of the Year Award." Mr. Grazioso will be honored at a ceremony on Sunday, October 20, 1996, in North Haven, CT. I would like to take this time to briefly acknowledge a few of Mr. Grazioso's contributions to the community throughout his career.

Mr. Grazioso has served the community in a number of public offices. He has been a New Haven city alderman, a corporation counsel, and member of the Civil Service Commission, as well as a member of the original board of the Shubert Performing Arts Commission and a member of the Board of Harbor Commissioners. Mr. Grazioso has also chaired many activities in my home State of Connecticut including the Columbus Day celebration and the State of Connecticut Columbus 500th Anniversary. He currently serves as vice-president of the Italian-American Historical Society and has recently been elected general counsel and national officer of the national Italian American Foundation.

Through his work with the Order Sons of Italy in America, Mr. Grazioso has participated in national and international charitable donations and has helped in raising over $500,000 for academic scholarships annually. Mr. Grazioso has worked closely with the Italian Government on wide range of educational and philanthropic activities. In 1991, Mr. Grazioso was honored by the Italian Government for his relief efforts on behalf of Italian earthquake victims. His work has been consistently outstanding and his commitment to helping his fellow citizens is much appreciated.

I salute Mr. Frank M. Grazioso for his continued dedication to serving his community and I congratulate him on his being named the "Good Citizen of the Year." It is an award obviously well deserved.•

REFORM OF THE FEDERAL FOOD AND DRUG ADMINISTRATION

• Mr. GREGG. Mr. President, I would like to take one last opportunity in this Congress to discuss on the floor of the Senate a matter that is of high priority to me: reform of the Federal Food and Drug Administration. As I have stated many times, FDA reform is critical if the United States is going to continue to be the world leader in the field of medical technology, and I, for one, plan to pick up the mantle that was dropped in relation to this legislation this year.

And I believe the amendments that I offered that were adopted during consideration of Senator KASSEBAUM's bill by the Labor Committee represent some important principles on which we will need to build a new reform bill in the 105th Congress. One of these amendments dealt with the dissemination of new information relating to health discoveries uncovered by other authoritative Government agencies, such as the National Institutes of Health or the National Academy of Sciences. I believe the American public has the right to be as informed as possible about the nutritional value—or even the scientific potential value—of the food they eat.

Another amendment adopted would allow a system of national uniformity for the regulation, labeling, and marketing of nonprescription drugs. This is an important, pro-consumer provision. It would put an end to the confusing requirements that various States and localities choose to impose on these common products, ensure more efficient interstate commerce of these products, and will not force manufacturers to bear the cost of such mandates which are generally passed on to purchasers. This amendment also contributes to a higher standard of safety by exempting compelling State or local requirements, and creating a mechanism to make truly worthy requirements national.

Mr. President, I was especially pleased to see report language included by the committee acknowledging that other FDA-regulated products, "may also lend themselves to such a comprehensive system." I would hope that the starting point of this provision next year will include cosmetics, prescription drugs, and biologics along with nonprescription products. The value of governing these products by a single, nationwide system is potentially vast. And, Mr. President, I think that discussion of such a comprehensive system for the regulation of food and food additives should be part of the debate.

This provision also dovetails nicely with another amendment that was accepted by the Labor Committee. For example, there is a global trend of international harmonization for products such as cosmetics: The countries in the European Union, Latin American, and various Asian countries are working toward regulatory cooperation. The Labor Committee, recognizing the significance of mutual recognition agreements [MRA] and the ongoing negotiations the U.S. Commerce Department and others are involved in, accepted my amendment urging the continuation and completion of such MRA's.

I am concerned by reports that many times, when the folks negotiating these agreements are very close, it is the FDA that throws a wrench into the works. I hope that the agency will take the instruction passed as part of the Labor Committee bill seriously in regard to these international agreements. We need to see them demonstrate a greater willingness to recognize the standards used in other countries. As I have stated many times, the Food and Drug Administration in this country does not have a corner on the ability to regulate well.

These are the sort of FDA reforms that I believe will promote a more efficient, higher quality regulatory process at the Food and Drug Administration. I look forward to revisiting these issues, and all of the other aspects of FDA reform, early in the 105th Congress.•

REACH-BACK TAX RELIEF

• Mr. CONRAD. Mr. President, I am pleased to join Senator COCHRAN in sponsoring this reach-back tax relief bill, S. 2135, to alleviate some of the unintended and inequitable hardships inflicted on certain companies by the Coal Industry Retiree Health Benefits Act of 1992. Our bill would provide substantial relief to numerous small companies. It would also use a small portion of the existing surplus of more than $120 million in the combined health benefit fund created by the act to allow a 2-year moratorium on the reach-back premiums. This 2-year period will give the Congress adequate time to study the current operations of the act and to remedy the inequities of the current law.

In the past, I have said that the Coal Act produced several major achievements. First, it assured retired coal miners and their dependents that their health benefits were permanently secure. The act provided a statutory foundation to carry out the commitment of all of us to see that these benefits are paid. It also provided a necessary legal mechanism to transfer excess pension funds into the health funds. In addition, the act required certain cost-containment measures that greatly increased the cost effectiveness of retirees' health benefit programs.

Despite its significant accomplishments, one feature of the Coal Act—its reach-back funding mechanism—has engendered great hardship and controversy. Many companies, who long ago had withdrawn from the Bituminous Coal Operators Association [BCOA] believing that they had met all of their legal obligations to fund retiree health benefits, found themselves, in 1992, subject to a draconian reach-back premium tax that they could not have foreseen and for which they could not have planned. This retroactive tax enforced by the full power of the Internal Revenue Service and the threat of dramatically compounding penalties has produced severe hardship for many companies subject to it. Some of them are trying to pay it by depleting their assets and hence their ability to generate income. Others have tried to ignore it and are now being subjected to collection suits by the Combined Fund.

The 102d Congress was persuaded that the Bituminous Coal Operators Association could no longer afford to fund retired miners' health benefits on a current basis as it had for the previous 25 years. The Congress was told that miner's health benefits faced a crisis of skyrocketing costs that would bankrupt the miners' benefits fund if the Congress did not act. The Congress was given a choice of either an industry-wide tax or the reach-back tax to fund health benefits. The passage of the Coal Act saves members of the BCOA more than $100 million a year over its prior annual benefit payments.

Fortunately the skyrocketing costs predicted by the BCOA have simply not occurred. The cost containment measures contained in the act and the decline in population of retirees and dependents served by the fund are largely offsetting the inflation in health care costs. Thus, the reach-back tax is simply injuring companies who cannot afford to pay it while giving members of the BCOA a windfall benefit which they do not want to give up.

Mr. President, the problems being caused by the reach-back tax are just beginning. Many original supporters of the Coal Act recognize that it needs some fine tuning. The Cochran-Conrad bill would provide for a GAO study of current operations and a 2-year respite from the reach-back tax, while assuring that the overriding goal of providing health care benefits of retired miners is preserved. I hope that my colleagues on the Senate Finance Committee will give this legislation the early consideration it deserves in the new Congress.•

AUTHORIZING HUD TO REGULATE PROPERTY INSURANCE PRACTICES

• Mr. GRASSLEY. Mr. President, the Department of Housing and Urban Development [HUD] is aggressively pursuing regulation of property insurance practices, supposedly because of the Federal Fair Housing Act [FHA]. HUD takes the position that the FHA, which prohibits discrimination in housing on the basis of race, sex, national origin, and other similar factors, authorizes HUD to regulate property insurance practices that purportedly affect the availability of housing. I strongly disagree with this interpretation by the FHA. I do not believe that HUD has the authority to regulate the insurance industry, let alone have any recognizable expertise in this area.

HUD's insurance-related activities are directly contrary to the longstanding position of Congress that the States should be primarily responsible for regulating insurance. In the McCarran-Ferguson Act of 1945, Congress expressly provided that, unless a Federal law specifically relates to the business of insurance, that law shall not interfere with State insurance regulation. The FHA, while expressly governing home sales and rentals and the services that home sellers, landlords, mortgage lenders, and real estate brokers provide, makes no mention whatsoever of the service of providing property insurance. Moreover, a review of the legislative history shows that Congress specifically chose not to include the sale or underwriting of insurance within the purview of the FHA.

HUD's assertion of authority regarding property insurance is a major threat to State insurance regulation. In August 1994, HUD announced that it was undertaking a new rulemaking that would prescribe use of the disparate impact theory in determining property insurer's compliance with the FHA. Although HUD has stalled on the promulgation of such disparate impact rules, it remains firm in its position that the disparate impact test applies under the FHA, and that the FHA applies to insurance.

Under the disparate impact theory, statistics showing that a practice has a disparate impact on a particular protected group may suffice to establish a prima facie case of discrimination, without any showing of discriminatory intent. The use of this theory may be appropriate in certain contexts, but in the area of insurance, it is wholly inappropriate and, in fact, potentially harmful.

The disparate impact theory assumes unlawful discrimination based solely on statistical data. Thus, under a disparate impact approach, statistics showing differences in insurance coverages by geographic area, wholly attributable to different risks in those areas, could be assumed to reflect racial bias merely because of a correlation between race and geographical locations.

The application of the disparate impact test to property insurance practices could undermine the ability of State regulators to ensure, as they are required by law to do, that the companies under their jurisdiction remain solvent. If insurers accept loss exposures to protect themselves against charges of disparate impact, or if they classify risky loss exposures as lower-risk exposures for this purpose, they may incur financial problems, because premiums collected may be far lower than the amount needed to cover losses incurred, and policy holders' surplus will have to be used to pay claims. If an insurer engages frequently in such improper underwriting, its surplus can be drained to the point of insolvency.

It is precisely for the purpose of preventing insolvencies while providing a means to make insurance more available that the States have adopted Fair Access to Insurance Requirements [FAIR] plans. HUD's disparate impact approach is flatly inconsistent with these congressionally authorized plans. Generally, the FAIR plans make property insurance available to applicants who have been rejected by the voluntary insurance market so that higher risks may be allocated equitably among insurers operating in a State. The FAIR plans thus help to prevent individual insurer insolvencies by providing for risks to be spread among all property and casualty insurers.

HUD's disparate impact approach fails to take account of the careful balancing of objectives reflected in the FAIR plans. Indeed, HUD's approach completely ignores the key difference between unfair discrimination and sound insurance underwriting practices

that take the actual condition of the property into consideration. Clearly, it is unfair to discriminate on the basis of race, color, religion, sex, familial status, national origin, or handicap. But what HUD fails to recognize is that it is not unfair—indeed it is legally required by the States—for an insurer to evaluate the condition of the property and determine the risk. State insurance statutes not only deem these risk assessments to be legal, but indeed require them to prevent unfairness.

States and the District of Columbia have laws and regulations addressing unfair discrimination in property insurance. The State legislatures have debated and enacted a wide variety of antidiscrimination provisions to ensure that an insurer does not use race or other improper factors in determining whether to provide a citizen property insurance. The States are actively investigating and addressing discrimination where it is found to occur. In light of these comprehensive protections against discrimination, HUD's insurance-related activities are yet another example of unnecessary and duplicative Federal bureaucracy.

Let HUD enforce FAIR, and let the States regulate the insurance industry.●

EDWARD McGAFFIGAN, JR.

● Mr. BINGAMAN. Mr. President, when the Senate convenes in January, lots of familiar faces will be gone for one reason or another, and those of us returning will take up our work without the company and help of so many who are important to us and to this institution.

Because the Senate acted so quickly and responsibly on one matter before the August recess, one of my staff members is already gone, off to what is sure to be another outstanding period in an already distinguished career. Late in August, Ed McGaffigan was sworn in as a Commissioner on the Nuclear Regulatory Commission. Many of my colleagues and their staffs are well acquainted with Ed, and hold him in high regard, as do all of us in my office who have valued his company and counsel over the years.

Ed was among the first people I hired when I came to the Senate in 1983. Recommended to me by Joe Nye, Ed was then the assistant director of the White House Office of Science and Technology Policy. Prior to his work in the White House, he had been in the Foreign Service for 7 years, 2 of which were spent as science attaché at the American Embassy in Moscow.

From February 1983 until August 1996, Ed handled defense, national security, technology, and foreign policy issues in my office, as well as nonproliferation and export control policy, and personnel and acquisition reform. Early on, he was recognized by staff and constituents alike as a high-minded individual of bedrock honesty and great intelligence. I once heard our former colleague, Lloyd Bentsen, say that there is a special bond forged between a new Senator and the people who help him or her get started. Setting up an office, sorting out the priorities, and learning to say "yes" or "no" at the proper time on this floor take a certain devotion and effort of will on the part of all concerned. Ed McGaffigan was one of those who helped me get started here, and I could not have guessed that how valuable this intense, brilliant man would become to me, the people of New Mexico, and, indeed, the people of this country because of his service to the Senate. I could not have known how much we would all come to depend on his intellect, his great curiosity, and his unswerving commitment to truth.

Emerson, who was a student at the Boston Latin School more than 100 years ahead of Ed, anticipated him and knew his value in his essay on "Power," when he wrote: "Concentration is the secret strength in politics, in war, in trade in short in all management of human affairs * * *. A man who has that presence of mind which can bring to him on the instant all he knows, is worth for action a dozen men who know as much but can only bring it to light slowly."

Mr. President, Ed McGaffigan has concentrated his career on public service. We are fortunate that this is so, and fortunate, too, that we have in him not just a superb public official, but a true friend.●

IMPORTANCE OF OPEN LANDS NEAR TETON NATIONAL PARK

● Mr. SIMPSON. Mr. President, I rise today to speak for a few moments on an issue that is so very dear to the hearts of every citizen in my State—indeed most citizens of our Nation: I speak of the importance of open spaces.

Now, I believe it is safe to say that some of us take our open spaces for granted—a charge that applies—especially so —to those of us inhabiting our Nation's western regions. Most of us, upon taking an objective look at our Western States, conclude the dire environmentalist warnings of imminent coast to coast asphalt are shrill, exaggerated and foundationless. And yet, as with any other hysterical manifestation, there is a kernel of truth hidden beneath the hyperbole.

My State is blessed with many spectacular vistas, but perhaps none more so than the stunning Grand Teton mountains. Unless you have seen them yourself, you simply cannot appreciate their visual impact. They seem to come rearing up out of the prairie to tower high above our heads before plunging straight back down into the prairie again. In the valley beneath them lies the city of Jackson Hole. This is a city that has experienced booming growth in recent years as people from all over the Nation search for places to raise their families and make their fortunes that are not overtaxed, overregulated, or crime or pollution ridden. It has been both Wyoming's blessing and its curse to fit this bill so perfectly, and nowhere is this troubling dichotomy better exemplified than in the city of Jackson Hole.

Traditionally a ranching area, that town has now become a tourist mecca. But as pleased as environmentalists are to see land use industries give way to tourism, this same phenomenon has resulted in the destruction of heretofore open ranchlands which have been sold off bit by bit to the developers. It is an unfortunate and oh-so slippery slope. For the more development which takes place in the valley at the base of the Tetons, the higher the land values—and their accompanying property taxes—climb. The higher the property and estate taxes climb, the more difficult it is for these generations old ranching families to stay in business. This represents a far more serious situation than many eastern Members of this body can possibly realize. Cattlemen have long been the hapless holders of one of the most razor thin profit margins of any industry in this Nation. Today, they are going out of business left, right and center, Mr President, and the last thing they do before they turn out the lights for good, is to sell off their property bit by bit to real estate developers who then build expensive homes that only the wealthy can afford—we call them "log cabins on steroids.". The view of those mountains is spectacular and these developers and real estate agents charge for it accordingly.

Mr. President, the critical importance of preserving these incredible views—euphemistically referred to as "view sheds" by the land managers—available to all is of no small import to my State or the Nation. We need to be more business friendly. We need to keep our tax appetites under control. We absolutely need to reduce contrived regulation on our cattle industry and we need to ensure its access to Federal and State grazing lands and reasonable grazing fees. Above all, we must work to keep our ranchers ranching and our open lands open, in order to prevent the developers from overrunning this fragile and magnificent part of our Earth.●

SCOTT CORWIN

● Mr. HOLLINGS. Mr. President, as I noted earlier, committee staff have been working night and day all throughout this month to produce an acceptable omnibus appropriations bill. This has been a real hardship on the staff, but most of all on one of our majority staff on the Commerce, Justice,

and State Subcommittee. I say this because Scott Corwin was married in Portland, OR, on August 24. His bride, Kristen, has been out in Oregon since that time, waiting for Congress to conclude the people's business and recess sine die.

So, I note that while we are very sorry to hear that Scott Corwin is leaving our CJS Subcommittee and Washington, DC to return and live in Oregon—I'm sure that he is happy and we should be happy for him.

Getting right to the point, Scott Corwin is the consummate professional. He is a graduate of Dartmouth College in Senator GREGG's home State, and a graduate of the University of Washington Law School. Even though his roots are in the Northwest, Scott came to Washington, DC to work for Ambassador Bob Strauss' law firm in 1987. Since 1991, he has served our distinguished chairman, MARK O. HATFIELD. Since February 1995, Scott has served on our State, Justice, and Commerce Subcommittee.

Mr. President, Scott Corwin is the type of dedicated public servant who is so essential to our legislative system. He was assigned a number of appropriation accounts ranging from the U.S. attorneys to the Supreme Court to the Maritime Administration. Scott is a quick study and he dug into the details and specifics of these agency programs and budget requests. He soon mastered the details and became a real appropriator.

It became obvious to me and other Members that Scott came to truly care about the agencies that were under his review on behalf of Senator GREGG and the majority. Scott was the first to ferret out soft dollars that are unnecessary. But, he also stood up for programs that deserved our support. He was especially tenacious in his defense of small agency programs, like the Marine Mammal Commission—which the House of Representatives has proposed to cut significantly. In the case of agencies like the National Oceanic and Atmospheric Administration, we were fortunate to have someone so knowledgeable in earth sciences, fisheries, and oceanic research.

Scott Corwin will be missed on both sides of the aisle. It will be hard, if not impossible, to find such a talented individual to take his place. We wish him all the best as he returns to Oregon along with my friend, Senator MARK HATFIELD.●

MEDICAL PROCEDURES PATENTS

● Mr. FRIST. Mr. President, I am very pleased that the omnibus appropriations bill being considered today includes S. 2105, legislation I introduced regarding the enforcement of patents for pure medical procedures. I greatly appreciate Senator GREGG's efforts to include this provision.

Patent law has been a cornerstone of both law and economics since the founding of our Nation. The issuance of patents was one of the few powers expressly granted to the Federal Government by the Constitution.

Patents allow inventors to recoup their investment and thereby encourage continuous innovation. Without the protection of patents, individuals, and businesses would be reluctant to invest their time, money, and energy into developing new technologies.

While the appropriateness of patents in general has long been established, it has been somewhat controversial with respect to health care. Initially, the medical community took a dim view of the patentability of therapeutic drugs or devices. Many felt that it was morally wrong to profit from improvements in medical care. For instance, the first application for a patent on aspirin was denounced as an attempt to blackmail human suffering.

In time, however, the medical community and others came to realize that, without the benefit of patent law, many improvements in medical care would never materialize.

As in other areas of human endeavor, improvements in health care often require significant investments of time and money. Without the ability to recoup these investments through patents, critical research, and development would never get off the ground.

The appropriateness and importance of allowing patents for pharmaceuticals and medical devices is now well-established. But the appropriateness of patenting medical innovations that do not involve drugs or devices but are simply improvements in surgical or medical techniques remains highly controversial. I think for good reason.

Unlike innovations in medical drugs and devices, innovations in pure procedures—such as discovering a better way to suture a wound or set a broken bone—are constantly being made without the need of significant research investments.

Allowing a doctor to enforce a patent on such improvements would have disastrous effects. Furthermore, innovations in surgical and medical procedures do not require the midwifery of patent law. They will occur anyway as they have throughout history.

My legislation would prevent the enforcement of so-called pure medical procedure patents against health professionals. It would in no way, however, change patent law with respect to biotechnology, medical devices, drugs. or their methods of use. As a result, this narrowly tailored legislation would in no way discourage the important research being done in these areas of medicine.

I intended to offer my legislation as an amendment to the Commerce, Justice, State appropriations bill because a related amendment was offered by Congressman Ganske when the House considered this bill. That amendment—which passed overwhelmingly by a vote of 295–128—took a very broad brush approach. It would have prohibited the Patent Office from issuing any medical procedure patents.

Because the scope of the Ganske amendment was not clearly defined, it could have impacted many worthwhile patents in biotechnology and pharmacology. Accordingly, representatives of these industries came to me after the passage of the Ganske amendment to express their interest in crafting an alternative approach. The legislation included in this bill is the result of that effort.

Because the Commerce, Justice, State appropriations bill was never considered on the Senate floor, I did not have the opportunity to offer my legislation as an amendment. I am pleased, however, that this legislation was nonetheless included in this omnibus bill as an alternative to the Ganske language.

My legislation enjoys the support of the American Medical Association as well as numerous medical specialty groups that are very concerned about this matter. And, while the biotech and pharmaceutical industries opposed the Ganske amendment, they were instrumental in crafting this narrower approach.

The need for this legislation stems from the recent case of Pallin versus Singer. The facts of this case are very compelling. In performing cataract surgery, an ophthalmologist by the name of Dr. Pallin chose not to stitch the cataract incision because the patient was experiencing heart problems.

When Dr. Pallin later discovered that the incision healed better without the stitch, he sought and was awarded a patent for "no stitch" cataract surgery. Dr. Pallin subsequently sought to license this procedure for a fee of $4 per operation. Although the no-stitch procedure was widely used, few surgeons were willing to meet Dr. Pallin's demands.

In 1994, Dr. Pallin brought a patent infringement suit against another eye surgeon and his affiliated hospital. After incurring nearly $500,000 in legal defense costs, a settlement was finally reached. The settlement, however, does not foreclose the prospect of future lawsuits of this kind.

There is legitimate concern that Pallin represents the future unless we nip it in the bud.

My legislation is very narrow in scope. It would simply prevent the enforcement of patents against health professional or their affiliated facilities for pure procedure patents such as Dr. Pallin's. It does not impact in any way the patentability of medical devices, drugs, or their methods of use.

This change in law is essential. Allowing health professionals to be sued

for using innovations in pure medical or surgical procedures would have four disastrous consequences.

First, health care costs would explode if doctors charged licensing fees for every new surgical or medical techniques they developed. There are thousands of new medical and surgical techniques developed every year.

Permitting innovative doctors to charge a fee every time their new technique was used would be a windfall for the doctor but a huge and costly burden for the patient community. Because these innovations would occur anyway, these additional costs would be wholly unnecessary.

Second, it would greatly jeopardize patients' right to privacy. In order to know if a patent was infringed upon, patent holders could demand access to surgical notes and other detailed medical records to know precisely what kinds of procedures were used. Not only would this raise serious privacy concerns, but providing all of these records would be an administrative nightmare.

Third, allowing pure procedure patents would undermine the medical community's tradition—and ethical duty—of freely exchanging information for the benefit of patients. As a surgeon, I know first hand that medical training involves a very important social contract between health professionals. Making improvements in surgical or medical care and sharing those innovations with others is a critical part of the medical profession's commitment to advancing its art.

I was fortunate enough to innovate in my capacity as a heart transplant surgeon, but I always understood that my innovations were possible because I stood on the shoulders of giants.

I was able to advance the science of heart transplants because I had the benefit of superb teachers who themselves were great innovators. For me to have sought patents on new surgical techniques would have violated this social contract.

Fourth, it will open the door to FDA regulation of all aspects of medical practice.

While the FDA regulates medical devises and pharmaceuticals, it has no authority to regulate the general practice of medicine. The response to those who have advocated comprehensive FDA regulation of medical practice has been that checks and balances already exist to assure that patients receive appropriate care. One of those checks is the peer review process. If we undermine the peer review process but injecting patent-seeking into the heart of the practice of medicine, we will have opened the door for proponents of more expansive FDA regulation.

If we accept the argument that innovations in pure procedures should be treated no differently than innovations in drugs or devices for purposed of patent law, we open ourselves up to the argument that they should be treated no differently for other purposes as well—including FDA regulation.

Not only would pure procedure patents have disastrous effects on health care, they are unnecessary to encourage innovation.

It is important that we not lose sight of the underlying purpose of patent law. Its function is not to reward innovations after the fact. Its purpose is to encourage innovation that would not occur otherwise. This rationale does not apply to innovations in pure medical and surgical procedures because such innovations have and will continue to occur without the benefit of patent law.

Further, unlike innovations in medical devices or drugs, pure-procedure innovations do not require huge investments of capital. As Dr. Pallin's no stitch cataract surgery indicates, most breakthroughs are discovered in the course of treatment. This is partly why the AMA's Code of Medical Ethics holds pure-procedure patents to be unethical.

Doctors have an ethical duty to seek the best care for their patients. This includes the duty to innovate when necessary. Also, recognition among one's peers for innovation and excellence is a tremendous incentive for doctors. Every doctor wants the cachet of publishing an article in a medical journal detailing their innovation. Finally, to augment these private motivations to innovate, millions of dollars in public and private grants are available each year to advance pure-procedure technology further.

As a result, not only would allowing pure procedure patents to be enforced against doctors be detrimental to health care, it would not serve the underlying purpose of patent law which is to encourage innovation.

In closing, I want to thank Congressman GANSKE with whom I have been working for the past year on this important subject. His amendment provided the impetus to address this important matter in the waning days of this Congress.

I also want to thank Senator GREGG and his staff for their strong support. Without Senator GREGG's commitment, this legislation would not have been possible.

Finally, I want to assure opponents of my legislation that I take seriously their concerns and will be the first to join them in revisiting this issue if its unwitting effect is to chill medical innovation. While I do not believe this will be the effect, I agree that it warrants a watchful eye.•

MEDICARE BENEFICIARY SHARES CONCERNS ABOUT THE NEW DOLE PLAN

• Mr. ROCKEFELLER. Mr. President, a few weeks ago, a number of my Democratic colleagues and I held a forum on how former Senator Dole's economic plan would affect the Medicare Program and the 37 million people who rely on it for their health care needs. Unfortunately, there have been no formal congressional hearings to examine the consequences of this mammoth plan on the lives of the American people, or in particular, on Medicare beneficiaries.

Our forum heard from highly respected economic and health care experts who warned us that the Dole plan would require deep cuts in Medicare, which would force major changes in the program, cuts in payments to the professionals and institutions that provide Medicare services, and reductions in the quality of the medical care provided to Medicare beneficiaries. In my view, this is one of the most obvious and compelling reasons to do everything possible to prevent the Dole economic plan from ever becoming reality. It astounds me that we are seeing this revival of a supply-side proposal that once again puts Medicare on the chopping block in order to pay for tax relief for the wealthy.

We also were privileged to hear from an extraordinary senior citizen and Medicare beneficiary, Betty Miller. Betty Miller told us that the Medicare cuts required to pay for Dole's tax cut plan would seriously threaten her health care security. Betty was a powerful witness and I think she truly represents what the majority of Medicare beneficiaries would tell us if they had the chance to share their views about the Dole plan's harsh Medicare cuts.

I want all my colleagues to be able to listen to Betty's comments about Medicare. I submit Betty's testimony for the RECORD, and urge each of my colleagues to take the time to read what a real Medicare beneficiary cares and worries about when candidates propose financing tax breaks with their Medicare Program. Again, I thank Betty for taking the time to tell us about her health care worries, and about what Medicare means to her.

This testimony underscores, I submit, the reasons to protect Medicare from being raided for anything but the future of this crucial health care program. A promise was made to Betty Miller that she could experience her retirement years with the peace of mind of health care security. And a promise was made to future retirees, who are now working hard to pay into the Medicare Trust Fund, so they can count on the same health security. The Dole plan threatens this promised health care security, and should be rejected.

The testimony follows:

My name is Betty Miller. I am 77 years old and in good health, fortunately.

Nine years ago my husband died of emphysema and complications, amassing bills of one quarter of a million dollars. I would be

impoverished today, and so would my children, if it were not for Medicare.

Since then I have cost Medicare less than one hundred dollars ($82.24) for the total nine years. My pension deductions for Medicare amount to $510 annually. I have worked since I was 17 years old. In the years before my retirement ten years ago my Health Insurance tax was deducted from every salary check.

I like the Medicare program. It gives me peace of mind. I can sleep at night knowing that I may not become a financial burden to my children. My four children are fine, upstanding citizens gainfully employed, but they are not wealthy. They could not face the burden of a major health expense for me. A burden which might rob my six grandchildren of a higher education or other economic requirements.

This is why we are so concerned with Republican proposals, the proposal you have just heard about which my Representative and her Republican colleagues support. A 15% tax cut at my income level would be peanuts compared to my possible medical bills.

At my age I do not worry about dying, but without Medicare I would worry about surviving. Many of my friends are in the same position.

We need Medicare for ourselves and our children.•

TRIBUTE TO SAID FREIHA

• Mr. BROWN. Mr. President, I rise today to speak about the life of Mr. Said Freiha, a past chairman of the influential Arab publishing house, Dar Assayad, and the founder of Assayad, a weekly newsmagazine.

Born in Lebanon in 1912, Mr. Said Freiha rose from humble beginnings committed to the belief that a strong society full of freedom, pride and dignity could only be achieved through free enterprise and democracy. In 1970, Mr. Freiha established the Said Freiha Foundation for Welfare and Scientific Services. The foundation has been instrumental in providing financial, medical and professional aid to members of the Arab media and their families.

Under this leadership, Dar Assayad became one of the top three printing and publishing houses in the Arab world. When Mr. Freiha died in March 1978, he left behind a press empire now producing 12 publications.

Said Freiha's memory will remain as a beacon in the Arab world. Readers from across the Arab world will continue to benefit from the literary treasures he left behind.•

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS

• Mrs. MURRAY. Mr. President, I want to thank the chairman and ranking member for working together to report this bill. I will certainly support final passage.

One of the most important budget items in this bill to me and my Seattle area constituents is funding for the new Federal courthouse. This courthouse has been needed, and in the works, for almost a decade. As Congress has expanded the role of Federal courts in crime fighting and other areas, our judges have gotten more and more squeezed. There is no doubt a new courthouse is needed.

At this time, the General Services Administration, working with the city of Seattle, has tentatively selected the main library for the city as the site for the new courthouse. The library is in sore need of replacement or major restoration. The library is a cherished public asset. The people in and near Seattle check out books at a rate of 1 million per year. They bring their children to story hour, attend the diverse programs, and conduct tremendous amounts of personal and professional research.

The city of Seattle recognizes the need for expansion of the Federal courthouse and is committed to working energetically in partnership with the GSA to make this a reality. Seattle has offered to relocate its library to expedite expansion of the courthouse. I am pleased the city and GSA intend to work together, as quickly as possible, to find a mutually agreeable resolution of the cost and timing questions.

Mr. President, I again thank the chairman and ranking member for doing their part to move this courthouse toward completion. The need for the courthouse and a smooth, cost-efficient transition to a new library cannot be overstated. I look forward to working with you further in the coming years of this project to ensure the Federal justice system is poised to meet the growing needs of the region, and that Seattle's central library is kept whole in the process.•

FOREIGN DIFFERENTIAL EXPORT TAX SCHEMES

• Mr. GRASSLEY. Mr. President, last month when we were considering legislation to extend the Generalized System of Preferences [GSP], I raised an issue involving an unfair trade practice that has been of great concern to U.S. growers and processors of soybeans. I described a tax policy employed by certain countries, including some who are major beneficiaries of the GSP program, to give their processors and exporters of agricultural products an unfair competitive advantage in world markets. This policy is used particularly to benefit foreign soybean meal and oil processors and exporters.

This tax policy, known as a differential export tax scheme [DET], in effect operates as an indirect subsidy for exports of soybean meal and oil, permitting oilseed processors in those countries to underprice their competitors and obtain greater market shares for these products. As a consequence, the United States share of the world export market for soybean products has declined significantly, while the countries that engage in these trade-distorting practices, such as Brazil and Argentina, continue to experience tremendous export growth in these same products. Moreover, these tax schemes have had the effect of creating artificial downward pressure on world price levels for these products, which has severely reduced U.S. soybean industry revenues.

In my statement last month, I cited the tax structure utilized by the State of Rio Grande do Sul in Brazil as a particularly egregious case in point. At that time, I noted the commitment of the Brazilian Federal Government to reforming that system. I am pleased to report that earlier this month, the Government of Brazil enacted reform legislation that eliminates these taxes on exports of raw materials and semi-manufactured goods. I want to publicly congratulate the Government of Brazil for this major accomplishment. I hope the example of leadership that Brazil has set in taking this important step will encourage other countries that continue to utilize these tax schemes to take similar steps toward free and fair trade. I will continue to carefully monitor these developments and, as I noted in my previous statement, I am prepared to consider appropriate measures to encourage further progress in this regard.•

UNITED STATES-JAPAN INSURANCE AGREEMENT

• Mr. MURKOWSKI. Mr. President, today I would like to call to this Chamber's attention the continuing failure of the Government of Japan to honor the United States-Japan Insurance Agreement. My colleagues will recall that I offered a resolution on this issue on July 25 during our consideration of the foreign operations appropriations bill. That resolution was adopted unanimously by the Senate.

It way my hope at the time that the Government of Japan would soon begin to implement the obligations it undertook in the insurance agreement signed in 1994. Regrettably, not only has Japan not fulfilled its obligation to open its insurance market, as called for under the agreement, it is now poised to commit a grave violation of it. Such a violation would undermine Japanese credibility and could cost American companies millions of dollars of hard earned business. Rather than leading to a more open market, this agreement and Japan's new insurance business law, are being implemented by the Ministry of Finance in ways that could lead to substantially reduced American market share.

Our well-respected Ambassador to Japan, Walter Mondale, told the National Press Club earlier this month that it appears possible that the Ministry of Finance [MOF] "is going to

permit these huge insurance companies to develop subsidiaries to go into the third sector and swamp the third sector with the army of insurance agents they have, without opening the primary sector. . . . And I think many of [the foreign insurance companies] would be driven out." For the benefit of those Members unfamiliar with the insurance market, the so-called "third sector" includes such niche products as personal accident and long-term disability insurance, and it is the only sector where foreign firms currently can compete.

Since Ambassador Mondale made that statement, the possibility of a violation has grown. Just last week USTR met again with the MOF to take stock of our respective positions. What this meant in fact was the Japanese Government withdrew—in response to domestic industry pressure—all the concessions offered at earlier negotiations in Vancouver.

Rather than making progress, the negotiations are back to where they had been in March and April. And I believe we are now at a brink. Ambassador Barshesfsky has said publicly that if the MOF allows entry into the so-called "third sector," or in any other way prejudices the U.S. position, we will take appropriate actions.

Mr. President, I call on my colleagues today to support Ambassador Barshesfsky in her negotiations. We should do so unanimously. Japan must understand that the Congress' seriousness of resolve on this matter is no less than that of USTR.

Japan must honor its agreements. This may be a complicated issue, but it comes down to a simple matter—will Japan live up to its word. As Ambassador Mondale has said, "We have an agreement and that must mean something."

Mr. President, we have reached a day of reckoning. The Ministry of Finance must decide if it will permit violations of the agreement. If, on the other hand, the MOF does not permit violations, cooler heads may yet prevail.

Last week, a U.S. official said, "In its action on October 1, the Japanese government should not take action which prejudices the negotiations, which invalidates the U.S. position or unilaterally adopts the Japanese position." I agree. The proper and appropriate action by the MOF at this time would be a continuation of the freeze which has prevailed for a number of months. That is what we expect from the MOF, and nothing less. I hope our friends in Japan do not miscalculate, but if they do, we must leave no doubt that they have made a mistake.•

REAUTHORIZING THE NATIONAL MARINE SANCTUARIES ACT

• Mr. INOUYE. Mr. President, I rise today to commend Senator STEVENS and Senator KERRY for their work in bringing this bill to passage. By reauthorizing the National Marine Sanctuaries Act, we reaffirm our commitment to the preservation and protection of marine resources and areas of great biological significance in the marine and coastal ecosystem.

This bill also amends the Hawaiian Islands National Marine Sanctuary Act to reflect some of the concerns raised during the sanctuary review process. Most importantly, the Hawaii provisions of the bill prohibit the imposition of user fees in the sanctuary. The measure also incorporates amendments requested by the Kahoolawe Island Reserve Commission (KIRC) regarding any future efforts to include the island of Kahoolawe in the sanctuary. The bill provides the KIRC with the authority to request that Kahoolawe be included in the sanctuary. If the KIRC does not make this request, Kahoolawe will not be included.

This bill represents bipartisan cooperation on an issue of great importance; the protection of the marine environment. I would like to thank the staff of the Committee on Commerce, Science, and Transportation, especially Lila Helms, for their role in making this reauthorization a reality.•

200TH BIRTHDAY OF LIBERTY HALL

• Mr. MCCONNELL. Mr. President, I rise today to ask my colleagues and all Americans to join me in paying tribute to Liberty Hall in Frankfort, KY. This historic home will celebrate its 200th birthday on October 2, 1996.

Liberty Hall is one of Kentucky's finest 18th-century homes. It served as the residence of Kentucky's first U.S. Senator, John Brown, and four generations of his family. Senator Brown held office from 1792 to 1805. Brown married Margaretta Mason on February 21, 1799; after their wedding they returned to Frankfort and his home, Liberty Hall, which he began building in 1796.

Senator Brown was known as a strong advocate and voice for the developing lands west of the Allegheny Mountains. Brown was one of the first trustees of Harrodsburg. He also was a founding member of the Danville Political Club and a member of the Kentucky Manufacturing Society. At the time of his death he had the distinction of being the last living member of the Continental Congress.

Since 1937, Liberty Hall has served as a house museum. The historic home is a sterling example of the preservation movement in the Commonwealth of Kentucky.

Mr. President, I ask you to join me in celebrating Liberty Hall's 200th birthday. This historic site is a Kentucky landmark, and I hope all that travel to Kentucky's capital will take time to stop by and see why we Kentuckians are so proud of this historic mansion.•

COMMEMORATING SAM VOLPENTEST'S 92D BIRTHDAY

• Mrs. MURRAY. Mr. President, I rise today to issue a birthday wish to one of the most remarkable people I have had the pleasure to work with in these first 4 years of my term: my almost-92-year-old friend and mentor, Sam Volpentest.

For more than three decades, Sam has been working to ensure the economic stability of the communities surrounding the Department of Energy's Hanford Site in southeast Washington. As a representative of the Tri-City Industrial Development Council, he worked closely with Senators Magnuson and Jackson to secure funding and projects for Hanford as the site has transitioned through various incarnations, from helping to win the cold war to cleaning up a nuclear mess to moving onto a healthy, stable future. And although these two illustrious leaders have passed on, Sam has not let up. He has advised and educated a whole new generation of elected leaders about priorities and the importance of the Tri-Cities.

Sam is tireless. He has more energy and enthusiasm than almost anybody. People who are half his age would be happy with his energy level—I know I would. He puts that energy to good work for Hanford and for the numerous charities and organizations he supports. I can think of no person who has contributed more time or energy to Hanford's workers and communities than Sam Volpentest.

Mr. President, I want to tell one story to illustrate Sam's dogged determination to do the right thing. Early in my Senate tenure, Sam shared with me an exciting new venture for Hanford, dubbed HAMMER—the Hazardous Materials Management and Emergency Response facility. HAMMER was an excellent idea, but a costly one—especially in this budget-cutting climate. However, with Sam at the helm of the project, this important inter-agency, cooperative emergency response program had a chance to make the transition from dream to reality.

In 1994, Sam got word that HAMMER funding was threatened. He called my office late one evening and explained how important it was to contact Senator EXON, who would be instrumental in saving HAMMER. Sam arrived at 7 a.m. and camped on my doorstep, and believe me, anyone who has had Sam camp out on their doorstep knows this man can camp. He helped me develop a strategy for winning and we worked every hour of the day to implement that strategy. In the end, we saved HAMMER.

Just last year, we broke ground for the extensive HAMMER training course. Today, HAMMER—Sam's mission and one of his many dreams—is almost constructed. The people not only in his community but across the Nation will benefit for years to come for Sam's tenacity and devotion to "camping" on doorsteps.

Today, on September 30, Sam Volpentest celebrates his 92d birthday. On that day, The Tri-City Herald will publish a list of contributors who have given to "Sam's 92d Birthday Celebration for Charity." Contributors can give $9.20, $92, $920 or more to the organizing committee who will then pass the money on to the Blue Mountain Council of the Boy Scouts of America, the Tri-Cities Cancer Center, and

Washington State University Tri-Cities. This is an excellent way to celebrate Sam's continuing charity to his friends and community, and will certainly demonstrate the love and affection so many people have for this remarkable man.

Mr. President, I hope all of my colleagues are blessed with people so tirelessly devoted to their communities as the people of the Tri-Cities and I have in Sam Volpentest. I hope those of you who have the privilege of knowing Sam will join me in wishing him a very happy 92d birthday, with many more to follow.●

REPORT ON TRIP TO INDONESIA, VIETNAM, AND HONG KONG

● Mr. COCHARN. Mr. President, it is my pleasure to submit for printing in the RECORD a copy of a letter I am sending today to our distinguished majority leader which encloses a copy of a report of a trip I took with his authorization to Indonesia, Vietnam, and Hong Kong earlier this year.

I hope Senators and staff will be able to consider my suggestions for policies that enhance our economic and security interests in this very important part of the world.

I ask that my letter and report be printed in the RECORD.

The material follows:

U.S. SENATE,
Washington, DC, September 30, 1996.

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

DEAR TRENT: I am pleased to submit this report on my trip to Indonesia, Vietnam and Hong Kong from June 28 through July 8, 1996. I undertook this mission to engage senior officials in the region in discussions of political and economic changes in Asia, the impact of U.S. policy on those developments and the outlook for bilateral and multilateral relationships, particularly with regard to U.S. security and trade policy.

In Indonesia, we met with Hartarto Sastrosoenarto, Minister for Production and Distribution and Dr. Beddu Amang, Chairman of the Agency for National Logistics Administration.

In Vietnam, we met with Deputy Foreign Minister Vu Khoan, Deputy Minister of Defense Nguyen Thoi Bung, Minister of Trade Le Van Triet, Foreign Minister Nguyen Manh Cam, National Assembly Chairman Nong Duc Manh, and members of the American Chamber of Commerce.

In Hong Kong, we met with Governor Christopher Patten, members of the American Chamber of Commerce, Hong Kong legislative Council members, Preparatory Committee members, business and academic leaders. Mr. Martin Lee, Chairman of the Democratic Party, and Mr. Robert Ng, Trustee of the better Hong Kong Foundation.

The trip emphasized the importance the United States places on its relations with the countries visited. We gained valuable insights regarding United States defense and trade policies and issues confronting the countries visited. I believe the trip will enhance United States relations in the area and lead to a better understanding of the issues that confront us.

We received excellent assistance from Ambassador J. Stapleton Roy and the Embassy staff in Jakarta; Charge d'Affaires Desaix Anderson and the Embassy staff in Hanoi; and Consul General Richard Mueller and the staff in Hong Kong.

Colonel Terry Paul, USMC, served as our military escort on the trip. His assistance ensured a productive trip.

Thank you for authorizing me to represent the leadership of the United States Senate.

Sincerely,

THAD COCHRAN,
U.S. Senator.

REPORT OF THE MISSION OF SENATOR THAD COCHRAN TO ASIA JUNE 28–JULY 8, 1996

PURPOSE

Senator Cochran welcomed the Republican Leader's authorization to visit Indonesia, Vietnam, and the colony of Hong Kong. His delegation was officially hosted by the respective American embassies and consulates and met with senior officials in each of these locations.

Enroute to Indonesia Senator Cochran had the opportunity to meet with the U.S. Commander-in-Chief of U.S. Pacific Command, Admiral Joseph Prueher, and the Commander of the Third Marine Expeditionary Force, Major General Rollings, for briefings on Asian Security issues.

During the July 2–3 stay in Indonesia, the delegation discussed security and trade issues concerning Indonesia and Asia. Senator Cochran was honored at a reception for Indonesian participants in the Cochran Fellowship program, administered by the U.S. Department of Agriculture's Office of International Cooperation and Development.

In Vietnam from July 3–5, the Senator met with representatives of Vietnam's government to discuss the renewed bilateral relations and defense and trade issues concerning Vietnam and Asia. In addition, Senator Cochran represented the Senate at the American Community Celebration, a gathering commemorating the Fourth of July. This was the first such celebration since the normalization of relations between the two countries.

The July 5–7 talks in Hong Kong focused on regional issues and the coming transition of sovereignty of the colony from the United Kingdom of Great Britain to the People's Republic of China.

Enroute to Washington, D.C., Senator Cochran met at Fort Lewis, Washington, with Lieutenant General C.G. Marsh, Commander of the U.S. Army I. Corps.

COMMANDER-IN-CHIEF, U.S. PACIFIC COMMAND BRIEFING

Senator Cochran was briefed on June 29, 1996, by Admiral Joseph Prueher, Commander-in-Chief of U.S. Pacific Command. The area of responsibility for Pacific Command comprises 100 million square miles spanning fourteen time zones. The vast geography of the region compounds the ever-present challenge facing our military of trying to forecast where the next problem will be before it occurs.

Approximately 100,000 U.S. service personnel are forward deployed in the Asia-Pacific region, most of which are in Japan and South Korea. The security brokered in the region by the United States since the end of World War II has played a pivotal role in creating the conditions necessary for economic prosperity in the region. This prosperity has a direct effect on the United States, as 37% of U.S. exports are to Asia and the Pacific.

The U.S. strategy in the region is one of "cooperative engagement," and our regional strategic objectives flow from this strategy: to maintain U.S. influence in the region; promote an environment of trust and cooperation; deny hegemonic control of the region; guarantee lines of communications; deter armed conflict in the region; and, enhance interoperability with our allies in Asia and the Pacific. Admiral Prueher underscored the fact that our strategy, and our strategic objectives, can only be satisfied if the U.S. military retains a credible warfighting capability in the region and around the world.

There are several sources of instability in the region that are of concern to Admiral Prueher: the prospect of regional conflict, such as in Korea or between India and Pakistan; the many issues surrounding the future of the People's Republic of China, to include questions on the future status of Hong Kong, the PRC's relationship with the Republic of China, and the PRC's continued participation in the proliferation of weapons of mass destruction and ballistic missile delivery systems, this proliferation by itself being one of Admiral Prueher's chief concerns; religious and ethnic conflict; drug trafficking; and territorial disputes, such as the Spratley Islands issue.

With particular regard to one aspect of the proliferation problem in the region, Admiral Prueher noted that there is "almost overwhelming evidence" that the PRC has supplied missiles to Pakistan.

Admiral Prueher gave an insightful analysis of the recently-concluded PRC "missile tests" around the Republic of China just prior to the election of President Lee Teng-Hui. While the United States was not seeking overt confrontation with the PRC, but to have a "measured response," American actions were designed to signal China that it was prepared to stand by its commitment to the Republic of China and to signal our allies in the region that the U.S. security commitment to the entire region remains strong.

In responding to a question, Admiral Prueher said that the Chinese ballistic missiles performed as expected, and that these "missile tests" underscored the need for rapid deployment of highly effective theater missile defense systems, such as the THAAD and Navy Upper Tier systems.

Admiral Prueher is hopeful that the U.S. Navy will be able to continue to use Hong Kong as it currently does after July 1, 1997, and believes that full IMET for Indonesia would be very helpful in both maintaining our relationship with Indonesia and improving the lives of Indonesians. Placing restrictions on IMET for Indonesia makes it more difficult to influence the future direction of the Indonesian military.

OKINAWA

The delegation made a brief stop in Okinawa and had the opportunity to meet with Marine Corps Major General Wayne Rollings, Commander the Third Marine Expeditionary Force, Air Force Brigadier General Hobbins, and Consul General O'Neill. The delegation's visit occurred in the wake of Secretary of Defense Perry's negotiations with Japan to reduce the U.S. force presence on Okinawa, to include reducing the number of bases there. General Rollings, III MEF Commander, discussed the need for access to larger training areas to keep the Marines of III MEF properly trained. He also explained the ongoing coordination that occurs with CINCPAC to ensure that U.S. forces in the region are prepared to respond as necessary to any forseeable contingency.

INDONESIA

Indonesia has had steady growth in its economy for the last thirty years, increasing its per capita income from $60–$70 in the mid-1960's to approximately $1,000 today. The Indonesian economy has a growth rate of 7%–8% per year, and is projected to be the fifth largest economy in the world by 2020. Indonesia, in terms of population, is currently the world's fourth largest nation and is the world's most populous Islamic nation.

The United States is the largest foreign investor in Indonesia, though if oil and natural gas investments are removed, both Japan and Europe invest more. The Japanese government is doing a great deal to help its businesses gain market share there, providing approximately $2 billion per year in soft loans to Indonesia and to Japanese businesses that invest here.

Indonesia is a large importer of a wide range of agricultural commodities. It is currently America's 14th largest agricultural export market, with the dollar value of U.S. agrciutlural exports having tripled in the

last five years. U.S. cotton imports have increased by 58% in just the last year, Indonesia is the second largest foreign market for Washington State apples, and Indonesians are willing to pay more for U.S. beef. Indonesians like American products.

Indonesia is a country in transition. Half of its population has been born since President Suharto ascended to the leadership of Indonesia, and, while the country's economy is growing strongly, the political expectations of the burgeoning middle class have not yet been met. The human rights situation, particularly in East Timor, though improving, is not satisfactory. However, the human rights violations that have occurred have not, by and large, been committed by military officers trained in the United States. In fact, it is the American-trained officers that American embassy officials are able to go to in seeking to find out the facts when there is a human rights problem involving the military.

It was because of human rights violations that Indonesia's participation in the International Military Education and Training (IMET) program has been reduced, albeit under the curious name of "expanded" IMET. Of the 109 countries participating in IMET in FY '95, only Indonesia's participation was curtailed. During the delegation's visit U.S. Ambassador Stapleton Roy expressed a strong desire for restoring full IMET to Indonesia, telling Senator Cochran that singling Indonesia out for special treatment could ultimately mean the difference between friendly and a hostile regime. This consideration is particularly important in light of the fact that, in times of heightened tensions or crisis ranging from the Mediterranean to the Pacific, American naval forces must transit Indonesia's water when traveling between the Pacific and Indian Oceans.

Minister for Production and Distribution Sastrosoenarto

The delegation's first meeting with an Indonesian official was with Hartarto Sastrosoenarto, Minister for Production and Distribution.

Minister Sastrosoenarto stated that imports are surging in wheat and noodles. Indonesia is interested in becoming self-supporting in other agricultural commodities, such as corn, sugar, and rice. However, particularly with regard to rice, Indonesian farmers are having a difficult time growing enough to satisfy demand, despite the fact that noodles have become such a popular staple.

While Indonesia imports cotton from the United States, Minister Sastrosoenarto mentioned that his importers have recently begun to complain that some American cotton has been shipped to Indonesia with a fungus.

To help transition to a free market, the government is actively involved in a step by step removal of subsidies in the distribution sector. Minister Sastrosoenarto went on to state the importance of continuing to reform the economy to help generate a larger middle class and enhance social stability. As part of the transition to a free market, he went on to say that the government would be privatizing large portions of the national infrastructure, such as power generation, telecommunications, and harbors.

Minister Sastrosoenarto commented that the legal system is weak and must be improved to create a strong legal framework emphasizing support for private property as an incentive for continued growth.

Finally, the Minister expressed his hope that at some point in the future ASEAN and NAFTA can be formally linked together.

Agency for National Logistics Administration (BULOG)

The delegation next met with Dr. Beddu Amang, Chairman of the Agency for National Logistics Administration (BULOG).

Dr. Amang mentioned that trade in agricultural commodities with the United States is continuing to grow, citing soybeans as an example of a commodity which is completely imported from abroad, 90% of which comes from the United States.

While four million tons of wheat per year is imported by Indonesia, almost 50% of that wheat comes from Australia while just over 10% comes from the United States. In response to a question from Senator Cochran, Dr. Amang attributed Indonesia's low imports of U.S. wheat to high levels of dust that have been found on imported American wheat (also a problem with U.S. soybeans, though not as widespread) and the higher shipping costs (relative to Australia) from the United States. Wheat that only takes six days to be shipped from Australia takes on average 23 days to come from the United States.

Dr. Amang mentioned that Indonesia makes extensive use of GSM-102 credits, particularly for soybeans and corn, though the bank charges are expensive and the repayment period (three years) is too short. Despite these problems with the GSM-102 credits, and despite the fact that Indonesia would like to become self-sufficient in growing corn, corn imports for feed are increasing every year.

Dr. Amang expressed the hope that U.S. investment in Indonesian agriculture would increase, to which Senator Cochran stressed the importance of Indonesia's continuing to enhance its legal system to protect the sancity of contracts, as well as the need to continue to decentralize the Indonesian distribution system.

Other meetings

The delegation was pleased to have the opportunity to meet with graduates of the Cochran Fellows program and listen to their stories of how they've taken the lessons learned from their exposure to the American marketplace back to Indonesia to build prosperous careers and businesses. The delegation met with a cross section of Indonesians involved in government, the military, private business, and think tanks at an informal dinner hosted by Ambassador and Mrs. Roy. The delegation also had a productive breakfast with representatives from the American Chamber of Commerce in Jakarta.

SOCIALIST REPUBLIC OF VIETNAM

After years of contentious relations, including Vietnam's invasion and occupation of Cambodia, on July 11, 1995, President Clinton announced his decision to establish ambassadorial-level relations with Vietnam. In recent years Vietnam has improved its political and economic relations abroad, while bettering its economic situation domestically. Vietnam has worked to complete a Cambodian settlement, and appears to have made progress on the prisoners of war/missing in action (POW/MIA) and other issues of great interest to the United States.

Vietnam moved to become a new member of the Association of Southeast Asian nations (ASEAN) in 1995. Since that time, Vietnam has indicated its desire to join the Asia Pacific Economic Cooperation (APEC) group and the World Trade Organization (WTO).

Now in their tenth year, economic reforms in Vietnam continue to make progress toward a more open market. The delegation observed the beginnings of a growing, vibrant economy based on family-owned small businesses.

At the time of Senator Cochran's visit, the Communist Party of Vietnam had just completed its Eighth Congress. The Congress conducted a review of its policies, focusing in particular on domestic economic reforms. While changes in the top three leadership positions were expected, no changes took place. The Party Congress determined that the country would continue on its present course of economic reform.

Upon arrival in Hanoi on Wednesday, July 3, the delegation met with Embassy staff for a briefing. Embassy staff provided a thorough briefing on all relevant issues, including an excellent presentation on the status of operations to resolve outstanding cases of POW/MIAs.

During each of his meetings, Senator Cochran stressed the importance of a full accounting of the POW/MIA question as a necessary precondition to continuing to improve relations between the Socialist Republic of Vietnam and the United States.

Deputy Foreign Minister Vo Khoan

Senator Cochran was the guest of honor at a July 3, dinner hosted by Deputy Foreign Minister Vo Khoan. The Deputy Foreign Minister stated that he had a chance to welcome several delegations from the United States over the last year, and that he was pleased with the improved relations between the two countries. He looked forward to the arrival of a new ambassador and the completion of negotiations over a bilateral trade agreement.

Deputy Foreign Minister Khoan discussed the open foreign policy Vietnam is pursuing. He noted the recent admission of Vietnam to ASEAN and its application to join APEC. He added that Vietnam was paying increasing attention to the Asia-Pacific region and to improving relations with its neighbors, China, Cambodia and Laos.

On the domestic side, he stressed that Vietnam had overcome economic and social problems and was entering a new era of development, which will focus on industrialization. He stated that the Vietnamese government wants to encourage the creation of small-and medium-sized businesses. In addition, at the recently completed Eighth Congress of the Communist Party, the government resolved to continue economic and political reform. He also mentioned that the President of China, Li Peng, came to Vietnam and addressed the Party Congress. President Li Peng's visit was a last minute surprise, and was the first time China had sent such a high ranking delegation to Vietnam.

Senator Cochran and Deputy Foreign Minister Khoan also discussed issues concerning POW/MIAs. The Deputy Foreign Minister explained that there had been good efforts by both sides on this issue, and that he expected continued cooperation.

On the issue of the repatriation of Vietnamese refugees from abroad, the Deputy Foreign Minister indicated that there is no problem for these individuals returning to Vietnam. One the problems in the South China Sea, the Deputy Foreign Minister recognized it as an important issue. He stated that all countries have agreed to resolve problems through negotiations, but the negotiations are difficult.

Breakfast with the American Chamber of Commerce Chapter

In Hanoi on Thursday morning, July 4, Senator Cochran was a breakfast guest of the American Chamber of Commerce. There are over 400 registered American companies in Vietnam, an increase of over 100 since January, 1996.

Senator Cochran stated that he was anxious to see how he could be helpful in continuing to develop relations between the two countries. While the POW/MIA issue is still the preeminent concern of U.S. policy, he said that the United States must begin also to focus on opening markets in Vietnam, for American firms.

Several members of the Chamber emphasized the need for services of the Overseas Private Investment Corporation (OPIC) and the Export-Import Bank. If American firms are going to compete in the burgeoning Vietnam market, the services and programs administered by these agencies are critical to success.

The members of the Chamber strongly complimented American Charge d' Affaires Desaix Anderson and the Embassy staff for the excellent job they had done in promoting economic issues and American businesses in Vietnam.

Deputy Minister of Defense Nguyen Thoi Bung

The delegation next visited with Deputy Minister of Defense Nguyen Thio Bung and several other members of the Vietnamese military.

Deputy Minister of Defense Bung described the work of the Vietnamese government to account for American POW/MIAs. He emphasized that the Vietnamese government had conducted a large number of unilateral investigations of cases before the 1988 POW/MIA agreement were reached with the United States. Between 1988 and 1992, over forty joint excavations for remains were conducted by the United States and Vietnam. From 1992 to the present the joint efforts have been even greater. The focus of the upcoming excavations will be on the central highlands of Vietnam. He stated that the Vietnamese have shown good will by taking American teams into his country's most sensitive areas, including Cam Ranh Bay and several military depots.

He emphasized that the Vietnamese treat the POW/MIA issue as a humanitarian issue and want to successfully resolve this issue. Hopefully, the successful resolution of this issue will help bring the countries together by closing the past so the people can look to the future. He also mentioned that Vietnam still has over 300,000 MIA cases of its own.

He declared that Vietnam has joined ASEAN to build peace, stability, security and prosperity in Asia. As for military relations with the United States, he indicated that the Vietnamese government was pleased with the appointment of a military attache to the American embassy. He was confident that such an appointment would promote friendship between the two countries' armed forces.

In responding to Senator Cochran's question about his views on what the biggest security threat is to the region's stability, the Deputy Minister responded that international strategists see the Asia-Pacific region as the most stable in the world, but that there is some concern over the South China Sea. He explained that there are some disputes over sovereignty of the Spratleys, but that there is regional agreement that the disputes should be resolved through negotiations. He also stated that there continue to be potentially unstable elements in Korea and Cambodia.

On the issue of the recent actions taken by the People's Republic of China against Taiwan, the Deputy Minister indicated that it was an internal affair between China and Taiwan. He said that if they could not settle it, it could affect the stability and security of the region.

Minister of Trade Le Can Triet

The delegation next met with Minister of Trade Le Can Triet and discussed several bilateral trade issues, including the ongoing negotiations over a bilateral trade agreement, and human rights issues.

Senator Cochran indicated that the United States Trade Representative had provided a blueprint to the Vietnamese government concerning some of the issues to be negotiated in order to reach a bilateral trade agreement. He asked if there was a likelihood that the United States would receive a response to its blueprint in the near future.

Minister Triet explained that the Vietnamese are looking through a list of many questions on the issues that have been discussed. He stated that during the May meeting Vietnam raised several questions to be further negotiated. Currently, the two sides are studying the draft. He indicated that the discussions had been frank, with good will on both sides, and that both sides are patiently listening and working through issues. The Trade Minister stated that while any agreement must reflect mutual benefits, the countries cannot avoid differences and that it will take time to fit different systems together.

The Trade Minister also discussed Vietnam's application for membership in APEC and WTO. He stated that Vietnam wanted to prove its willingness to move toward freer trade. Vietnam wants to become more deeply involved in the world community and the world economy.

Reception at American Charge d'Affaires Residence

This was a formal reception for much of the diplomatic community in Vietnam celebrating the 4th of July. Charge d'Affaires Anderson, the Vietnamese Deputy Prime Minister, Senator Cochran, and Governor Frank Keating of Oklahoma all spoke to the assembled audience, which included the diplomatic corps, military representatives from many countries and representatives from the international business community.

Minister of Foreign Affairs Nguyen Manh Cam

The delegation next met with Foreign Affairs Minister Nguyen Manh Cam. The Foreign Minister stated that world opinion could be reassured concerning the outcome of the recent Communist Party Congress. Vietnam intends to maintain its current course of development by continuing policies of openness, diversification and modernization.

In foreign relations, Minister Cam recounted Vietnam's tradition of having good relations with its neighbors and friends, and stated that Vietnam's foreign policy is consistent with global and regional integration. The Foreign Minister stressed the importance of moving relations between the United States and Vietnam forward, saying that it is important to make up for lost time and to work to overcome past animosities. He was pleased at the progress in relations since normalization.

The Foreign Minister was very pleased with Secretary Christopher's visit in August, 1995, when the United States and Vietnam agreed to boost economic development and make trade a top priority. Since 1994–95, there has been a four-fold increase in trade between Vietnam and the United States, which was done in the absence of Most Favored Nation (MFN) status. He also indicated that if Export-Import Bank financing, OPIC loan guarantees and MFN status were granted, the United States could become Vietnam's largest trading partner. The Foreign Minister emphasized the need for and importance of granting a Jackson-Vanik waiver.

With regard to the trade agreement talks, the Foreign Minister stated that the signing of a trade agreement is of great importance, but that it will take some time. The current negotiations were brought about through very intensive talks in October and November. The Foreign Minister urged Senator Cochran to help move the process forward. With regard to the POW/MIA issues, Foreign Minister Cam stated that Vietnam had fully cooperated, is cooperating, and will continue to cooperate.

Senator Cochran asked for the Foreign Minister's assistance in resolving the current impasse over the establishment of the American ambassador's residence. The Foreign Minister said that it was a concern, but said that the United States enjoys the best technical facilities in Vietnam in comparison to other countries. He indicated that the Vietnamese government would continue to work with the United States to find a suitable location and that he would try his best to get the most appropriate location for the residence.

The Foreign Minister also discussed the appointment of a new ambassador to Vietnam. He stated that the appointment of an ambassador is a way to ensure the continued development of normalization. He said that the nominee, United States Representative Pete Peterson, would make a strong contribution to bilateral relations.

At the close of the meeting, Senator Cochran presented to the Foreign Minister a statement Senator Claiborne Pell entered into the Congressional Record on June 20, 1996. The statement commended the life of Deputy Foreign Minister, Le Mai, who has recently passed away.

National Assembly Chairman Nong Duc Manh

The delegation's last official meeting in Vietnam was with National Assembly Chairman Manh. The Chairman discussed the recently concluded Party Congress and stated that the Congress presented a good opportunity to review Vietnam's Policy of Renewal. He stated that the Congress had many discussions on moving Vietnam into the 21st century.

In the area of foreign affairs, the Chairman indicated that Vietnam has broadened its approach and was pursuing an open foreign policy. He contended it was his strong desire to increase ties between the United States Senate and the Vietnamese Parliament.

Responding to Senator Cochran's question about how the recent Party Congress affected the National Assembly and if the National Assembly would play a larger role in Vietnam, Chairman Manh stated that the Congress plays an important role in the process of renewal. He explained that from now on Vietnam would work to move their national industrialization to a higher level. He further stated Vietnam's intention to continue to build its country based on the rule of law and enhancing the role of the judiciary and other institutions.

On improving the legal system, Chairman Manh states that Vietnam had changed its laws to create a more favorable investment environment. Laws to improve the economy, laws related to foreign investment and the commercial code are in the process of being drafted and will be subject to debate in October.

American Community Celebration

Senator Cochran joined with over 500 people at a picnic to celebrate the Fourth of July. Charge d'Affaires Anderson, Senator Cochran and Governor Keating all addressed an enthusiastic crowd.

HONG KONG

Codel Cochran arrived in Hong Kong on July 7 and departed July 9. While in Hong Kong the delegation was briefed by the U.S. Embassy Country Team and held meetings with Governor Christopher Patten, the American Chamber of Commerce, and Democratic Party Chairman Martin Lee. The delegation also met informally with Preparatory Committee members Paul Cheng and Frederick Fung, the Better Hong Kong Foundation, academics, civil servants and representatives of the U.S. business community.

There are several issues of direct interest to the United States related to Hong Kong's transfer to the People's Republic of China on July 1, 1997. The principal security issue concerns the question of whether the U.S. Navy

will be able to continue to use Hong Kong as a frequent port of call in Asia.

The U.S. Consul General's staff is unaware of any official response by the PRC on the question of whether the U.S. Navy will be able to continue to use Hong Kong as it currently does. Unofficial contacts on the matter have received favorable responses from PRC military officials; however, there has been no response from the political leadership. The lack of military piers in Hong Kong means U.S. ships would have to tie up at commercial moorings. The Chinese Navy is building a base, but it is unclear whether the U.S. would be allowed to use it. Hong Kong's importance to the U.S. Navy for ship visits is underscored by its location. Hong Kong is the closest to deployment tracks of U.S. Navy vessels. Other, such as Australia, Japan and Thailand are far off the deployment track. Approximately 70 U.S. Navy ships currently visit Hong Kong each year.

The ship visits issue relates to the general issue of continuity—something sought by people of Hong Kong. The U.S. hopes Beijing realizes that changing the practice on visits by U.S. Navy ships would send the wrong signal and undermine confidence in the territory.

The strategy for U.S. diplomacy on Hong Kong over the past year and a half has been to speak more publicly on commerce, law enforcement, ship visits, consular issues and to let Governor Patten speak on Hong Kong's unique qualities, such as the high degree of civil liberties and the rule of law. The Consulate has tried to raise the level of attention paid to these issues and encourage attention to be paid in and by official Washington, including visits by Members of Congress to Hong Kong and to Beijing, and hearings on Capitol Hill.

Few problems are anticipated in connection with the continuance in force of various U.S.-Hong Kong bilateral agreements. Several are pending, including a civil aviation agreement and an extradition treaty; a bilateral investment treaty needs to be negotiated as does a mutual legal assistance treaty. All are part of the policy, expressed in the U.S. Hong Kong Policy Act, to maintain a direct U.S.-Hong Kong relationship. The Act is the blueprint for this policy.

Another major issue confronting the U.S. is the status of the Consulate General and whether, after the People's Republic takes over Hong Kong on July 1, 1997, the consulate will be subordinated to the U.S. embassy in Beijing. Hong Kong is a very valuable post for the U.S. Fifteen U.S. government agencies are represented. Law enforcement is a particularly important function of the Consulate General. Several agencies are represented because Hong Kong is strategically located for gathering information on nuclear proliferation, weapons of mass destruction and narcotics. The Consulate General also plays an important role in promotion of U.S. business.

Governor Patten

Governor Patten noted the dramatic changes that had taken place in Hong Kong's infrastructure since his arrival in 1992, including progress on the new airport on Lamma Island, new bridges and reclamation in Victoria Harbor, and a new convention center.

Governor Patten called Hong Kong's situation astonishing in light of the fact that Britain's colonial governance usually ends with independence and self-governance for the former colony. Hong Kong's situation is different, he said, due to its history, alluding to the late 19th century Opium Wars and the concessions and leases through which Great Britain acquired Hong Kong island, Kowloon peninsula and the New Territories. The Governor said he had been criticized for admitting to having a "certain moral queasiness" over handing a free city over to a country with a different idea of freedom. Britain had attempted to solve its moral dilemma by negotiating a detailed arrangement for Hong Kong in the 1984 Sino-British Joint Declaration on the Question of Hong Kong which reflects the "one country, two systems" approach to Hong Kong's future under PRC sovereignty. Both the Joint Declaration and the Basic Law, the so-called "mini-constitution," promulgated by the National People's Congress in Beijing, spell out a detailed prescription for preserving Hong Kong's free and pluralistic society.

While the Joint Declaration is very specific, the trick, according to the Governor, is making it work. Beijing doesn't get the best advice on making the system work. And the influence of Tiananmen was profound. Some in Beijing choose to blame Tiananmen on outside interference from places like Hong Kong. Ultimately, the influence of Tiananmen was greater on Beijing than on it was Hong Kong. The reaction to the events of Tiananmen in Beijing created problems in Sino-British relationship on Hong Kong including, financing the airport, passports for Hong Kongers, the Bill of Rights and arrangements for democratic elections. The Governor said the reason for negotiations over electoral reforms broke down was not Patten's desire to move more quickly, but the PRC's insistence that Great Britain cooperate in rigging the elections.

Nevertheless, in spite of difficulties, the transition, according to Patten, has gone very well. The economy is strong, particularly the currency as measured against the U.S. dollar. Reserves are large. Exports and investments are good. Unemployment is at 3.1%. Jobs are growing at 4%. There hasn't been any capital flight—though some offshore arrangements are being made. Exceptions to the pattern of confidence are the domiciling of companies in other British colonies, and the acquisition by up to 600,000 Hong Kongers of foreign passports.

The Governor rejected arguments that Hong Kong people don't care about human rights and democracy. Many of Hong Kong's people fled from repression in mainland China and know the difference between a society based on the rule of law and protection from arbitrary government. The very high number of newspapers in Hong Kong is another indication of the interest of Hong Kong's people in political matters affecting them. Another indication of what Hong Kong people care about is demonstrated by the polls done by Michael DeGolyer of the Hong Kong Transition Project. These polls indicate most anxieties related to the future and the transition are about freedoms of the press and association and whether these will exist after 1997. The polls also reflect a correlation between demographic groups and attitudes about the future. Women are more worried than men. Better educated are more worried than the less educated. Younger people are more worried than older people, and the most worried are those who, because of their education, age, or other characteristics, are able to emigrate.

In response to questions, the Governor said that Great Britain couldn't fix the inconsistencies between the Basic Law and the Joint Declaration, but was focusing on reforming Hong Kong's laws to make them consistent with the International Covenant on Civil and Political Rights. The Hong Kong government's law reform project is 80% done. Difficulties remain in the areas of official secrets and telephone surveillance. The Governor said his government is determined not to leave behind laws which could be abused by the PRC after 1997.

Other issues of concern include corruption. Hong Kong's police and Independent Commission Against Corruption (ICAC) make Hong Kong the "cleanest city in Asia after Singapore. Any effort to take over and control the police would be a violation of the Joint Declaration and the Basic Law. The possibility of influence directed at Hong Kong's institutions by Beijing underscores the importance of a strong Chief Executive selected on the basis of merit.

Governor Patten said the PRC is serious about its threat to dismantle the Legislative Council (Legco), particularly because of the membership in the Legco of so many democrats. Here Patten said that the real reason for the collapse of talks over constitutional reform was not the specifics of his proposals but the PRC's demands that Great Britain be complicit in the abolition of the Legco and exclusion of certain democratic legislators unacceptable to Beijing. The PRC also demanded 2 member constituencies which would have had the effect of cutting in half the number of democrats elected. If the elections were conducted on one-man, one-vote geographical basis, Patten said, pro-democracy candidates would win 70% of the vote. Patten described Hong Kong's complicated system of election to the Legco based on 20 functional constituencies or electorates tied to workplace and professional associations, 10 electoral committee seats and 20 one-man, one-vote geographical constituencies.

Governor Patten said he was "very grateful" to the U.S. Senate for passing S. Res. 217 on June 28 supporting implementation of the Joint Declaration and expressing the position that it would regard establishment of an appointed legislature in Hong Kong as a violation of the Joint Declaration. The Governor said attention by other countries is very helpful to Hong Kong and that the U.S. matters the most of all to China. Since 1992 China has recognized that Hong Kong is an international city implicating international interests. Patten noted that the recent raising of Hong Kong by Chinese Foreign Minister Qian Qichen in a meeting with Secretary of State Christopher wouldn't have happened a few years ago.

Governor Patten related an anecdote concerning Qiao Shi, the head of the National People's Congress. Qiao Shi, a rising figure in China, has said there is a huge amount of "face" involved in the PRC's handling of Hong Kong and that interest in Hong Kong by the U.S. has an impact on Beijing. The Governor said the U.S.-Hong Kong Policy Act provides the proper focus for U.S. interest in Hong Kong and it would be "very sad" if the U.S. stopped speaking out or stopped sending visitors.

In response to Senator Cochran's expression of concern about a textiles transshipment issue dividing the U.S. and Great Britain, Governor Patten reported that his government feels the U.S. has not worked within the rules of the WTO and that Great Britain is sensitive to IPR and strategic trade issues. The Governor asserted that the border between Hong Kong and the PRC and the integrity of Hong Kong must be demonstrated on textiles, IPR, and strategic trade.

Governor Patten said visits by U.S. Navy ships were very important financially and

otherwise to Hong Kong, presented no significant problems from the sailors, and should continue after 1997.

DEMOCRATIC PARTY CHAIRMAN MARTIN LEE

Mr. Lee observed that Hong Kong's future will be determined by China's current leadership situation which leads it to act confidently outside of China, but with weakness inside China. As examples, Mr. Lee gave the rearrest of and imprisonment for 14 years of Wei Jingsheng at the same time that Beijing is gathering up valuable contracts with Air France. The PRC is confident that the U.S. government won't react to its treatment of Wei. Yet, trade and human rights don't have to be mutually exclusive. Mr. Lee gave the example of the Canadian trade minister for Asia, Raymond Chan, who raised human rights on a trade mission to China.

The Taiwan elections were a very important day for Lee since they were the first democratic Chinese elections in 5,000 years. China's intimidation tactics both succeeded and failed. The show of force pleased the aging generals and possible the Chinese people, so internally it was a success. However, externally, the show of force was a disaster. Turning away a delegation of Hong Kong democrats who wanted to present a petition opposing the appointment of a provisional legislature in Hong Kong was also a public relations defeat. Beijing could have handled both differently but felt internal pressure not to appear weak.

On the question of whether Beijing will follow through on its threat to abolish the elected Legco, Mr. Lee said it depended on the type of opposition this threat draws. If only the Democrats oppose the move, Beijing will go ahead. However, support from others inside and outside Hong Kong for the elected legislature and its right to serve out its term could made a big difference in how Beijing proceeds. Recently, the details of the 17 rounds of negotiations between Great Britain and China became known. The Governor refused to acquiesce in PRC demands that Great Britain set up electoral laws which would disadvantage democrats and agree to provisions allowing China to exclude certain individuals from the legislature. The PRC also wants to retain repressive colonial laws that were rarely used by the British, and wants to get rid of the Bill of Rights, which is based on the International Covenant on Civil and Political Rights and confers power on the courts to strike down unconstitutional laws. The PRC also wants to resurrect old versions of colonial laws which allow the government greater control over freedoms of expression and association. For example, an old law on assembling to march was amended to only require notice to the police. The PRC wants to change the law back so that approval for a procession of more than 20 people has to be secured in advance. The power to define what kinds of gatherings require approval would be up to the PRC.

Mr. Lee said Senate Resolution 271 reiterating the Senate's support for the Joint Declaration and stating that an appointed legislature would violate the Joint Declaration was extremely important. Mr. Lee said that other countries need to act as well—but that someone has to lead. Mr. Lee said that in the past he had favored a quiet, behind-closed-doors approach, but that China's failure to abide by its commitments in the Joint Declaration has shown that approach to be ineffective.

On the question of selection of the Chief Executive, Mr. Lee said that China itself acknowledges the selection process is not democratic. The selection will be made by the Preparatory Committee, a Beijing-appointed body which includes key officials of the PRC, such as Foreign Minister Qian Qichen. The Preparatory Committee will select 400 Hong Kong people to select the Chief Executive. Three candidates have been identified so far—C.H. Tung, a shipping magnate and former member of the Governor's Executive Council considered close to the PRC, Anson Chan, the Chief Secretary of the Hong Kong Government, and T.S. Lo, a solicitor and PRC advisor.

On the question of what U.S. policy should be, Mr. Lee said it is a matter for the U.S. to decide but Mr. Lee added that the development of democracy and the rule of law anywhere in the world is beneficial to the U.S. The violation of international agreements by China or other countries is not in the U.S.'s interest and would create a bad precedent. Above all, however, consistency is most important. The U.S. should make a policy and stick with it.

Other Meetings

The delegation also met informally with members of the Preparatory Committee, Paul Cheng and Frederick Fung, the Better Hong Kong Foundation, academics, civil servants and representatives of the U.S. business community to hear their concerns and recommendations for U.S. policy.

FORT LEWIS/MCCHORD AIR FORCE BASE, WASHINGTON

Shortly after arriving from Hong Kong the delegation had the opportunity to tour both McChord Air Force Base and the Army's Fort Lewis in Washington state. After the tour Senator Cochran and other members of the delegation had an informal dinner with Lieutenant General C.G. Marsh, Commander of the U.S. Army's I Corps. General Marsh, who has responsibility for the deployment of I Corps units in the Asia-Pacific region, commented that, having recently commanded U.S. forces in Korea, he is concerned about the volatility in the region. The situation is fluid and could erupt overnight, and the U.S. must be prepared to take action in Korea. General Marsh went on to state he has a close working relationship with others the delegation met with during the trip, such as Admiral Prueher (CINCPAC) and General Rollings (Commander, III MEF), and that their frequent interaction is a key aspect of the U.S. military's being prepared to act in the Asia-Pacific region, if necessary.

CONCLUSION

The Asia-Pacific region will dominate many aspects of American policy—foreign, security, trade—in the coming century. It is a region with stark contrasts: North Koreans reading recipes for cooking grass in "newspapers", starving in the cities and countryside, while their government spends money buying, building, and selling missiles and weapons of mass destruction; the Politburo of the People's Republic of China, allowing a market economy to run free in the south of the country while at the same time attempting to harness and repress the individual rights of its citizens to think and act freely, all the while increasing the size of its military—for example, building a "blue water" navy, building new classes of intercontinental ballistic missiles, to include the PRC's first land-based mobile ICBM—beyond any conceivable needs for self-defense; the Socialist Republic of Vietnam, on the one hand proclaiming itself to be dedicated to the principles of communism yet, on the other hand, encouraging private business and freely allowing information into the country; and, the economic miracle that is most of Asia, where growth rates are the staggering envy of the rest of the world. This is a region that cannot be the afterthought of American policy in the 21st century.

American policy toward the region must take into account the differences within the region. In Indonesia, the United States must work with the government to improve its record of human rights while, at the same time, recognizing that Indonesia is a force for peace and stability in the region and has to be treated with respect. Restricting IMET participation for Indonesia is counterproductive.

In Vietnam, the United States must continue to insist on a full accounting of those American service members who are still missing or presumed dead. While there is every indication that the Vietnamese government is finally starting to cooperative fully with the United States on this problem, that cooperation must be sustained over a lengthy period of time to create the conditions for closer cooperation between our countries. During this period the United States should be doing everything possible to encourage the development of as open and free a market as possible; during the delegation's visit, it was clear that the Vietnamese government recognizes that its future financial prosperity depends upon allowing private ownership to take place and information flowing freely into the country. This is a country where eventual political reform will most likely be the by-product of an emerging market economy.

In Hong Kong, the United States must insist that the freedoms guaranteed by the Sino-British Joint Declaration are implemented by the People's Republic of China when Hong Kong reverts to PRC sovereignty on July 1, 1997. China has already made troubling assertions that it will not abide by parts of this Joint Declaration; these assertions can only be translated into reality if the government of the United States ignores its obligations under U.S. law.

Economic growth has accrued more than financial benefits to many of the citizens of the Asia-Pacific region. Free markets have blazed a path for free people, as the examples of elections in both the Republic of China and South Korea demonstrate. In Japan, our close friend and ally for the last half-century, we also see the political change that has come with the free market. Many other nations in the region are also taking a more serious attitude toward individual freedom, and it is clear that this change in attitude has almost always been preceded by a free, or freer, market.

America is the glue that binds the region together. Enmity is not quickly forgotten in Asia, and it is the American military presence in the presence in the region that has allowed to countries in the area to concentrate on economic growth rather than military expansion. The reassuring presence of an American carrier battle group—or the knowledge that one is often just over the horizon—has resulted in a stable environment that has been conducive to economic growth for many in the region.

The United States must remember that this is a region in which our ability to trade cannot be separated from our ability to defend our interests and, if need be, protect our friends. Our security guarantees must be credible. By allowing terrorist states like North Korea to acquire weapons of mass destruction and ballistic missile delivery systems, some of our friends in the region have not-so-privately begun to worry about the credibility of the American security guarantee, particularly given the at best half-hearted effort by the Clinton Administration to

build quickly effective defenses against ballistic missiles. American vulnerability to coercion is not missed in Asia; unless the vulnerability if redressed, the credibility of the American security guarantee will evaporate, leading states that are now in an economic race into the invisible arms race. This can only work against American interest.

The United States will continue to succeed in the region, our trade will continue to grow, if we remember that military strength is respected, and it is upon this strength that American credibility is based. Our military must remain strong and visible in the region, and our security assurances to our allies must be carried out with the spirit, and not just the letter, of our arrangements in mind.•

THE PRESIDENT AT 50

• Mr. LIEBERMAN. Mr. President, I rise today to acknowledge a recent piece of journalism that I believe has captured the true essence of political reporting. On August 1, 1996, an article was published in the Wall Street Journal by Trude B. Feldman in which she relayed excerpts from her exclusive one-on-one interview with President Bill Clinton a few days before his 50th birthday. In a time when civility and respect are often pushed aside by personal attacks and rumor and innuendo, Ms. Feldman has proven herself to be a journalist who has retained an exemplary style of reporting. Her article, entitled "The President at 50", sheds light on the President's personality in novel ways. Ms. Feldman presents an articulate and important account of the President, drawing from him new insights into the policies and politics of our day. In the end, Ms. Feldman produces a proud piece of journalistic work.

Mr. President, I ask that the text of this article be printed in the RECORD.

The article follows:

THE PRESIDENT AT 50

(by Trude B. Feldman)

This month marks the 50th anniversary of the birth of the president of the United States. And today is the 50th anniversary of the Fulbright Scholarship Program, initiated by William Jefferson Clinton's mentor, who inspired the president to make a genuine contribution to global understanding. Eighteen days after President Truman signed Sen. J. William Fulbright's legislation into law, the boy who would become the 42nd U.S. President was born, one month ahead of schedule, by Caesarean section.

In an exclusive interview for his 50th birthday, President Clinton spoke of the two milestones, recalling what he had learned from his first political role model.

"Senator Fulbright had a profound impact on the way I now view the world," the President told me. "He taught that education is the solution to most of the problems of mankind; and he also cautioned against the arrogance of power.

"It was two weeks after Hiroshima when he sponsored the international education program that has affected the direction of policy in country after country. He changed our world forever, and for the better. And my goal is to continue on the path that he envisioned."

Sitting in the oval office for the one-on-one interview, the president was pensive as he expounded on the legacy of Fulbright's vision for the baby boomer generation. Mr. Clinton also spoke of his spiritual journey as well as his achievements, goals, and regrets. He addressed the character issue; explained his views on the economy; poignantly recalled the death of Vincent Foster; and reflected on what stirs within him as he reaches his half-century.

Excerpts from the hour-long interview follow:

Ms. Feldman: Is this milestone a turning point for you?

President Clinton: Yes, in many ways. I feel grateful to reach my 50th anniversary on Earth, to have my health, my family and this job at the time when I feel most able—mentally, physically, and emotionally—to do it. But I feel a sort of sea change. Being 50 gives me more yesterdays than tomorrows, and I'll now begin to think more about the long-term implications as well as the consequences of what I do. Since I've been president, I've become steadily more philosophical, but not less optimistic.

Q. Is there anything about yourself that you'd like to change as you turn 50?

A. Oh sure, lots of things. I'd like to develop more of what my wife calls the "discipline of gratitude." I'd like to be able to roll with the punches more. I've become much calmer in the face of buffeting events in the last few years, and I hope this continues so the highs and lows of events don't throw me off course.

Everybody has some regrets, but I've been so fortunate that I feel I've gotten a better deal in life than I deserved.

Q. What is your most significant accomplishment in the past 50 years; and in the last four years?

A. The most significant accomplishment in my life was convincing Hillary Rodham to marry me. It changed everything. There is no question about that.

The most significant accomplishment in the last four years is that I have largely succeeded in changing the way we think about ourselves and our future. By doing this, I helped to make it possible to make substantive changes. That's more important than any specific bill I passed.

Q. This is the third anniversary of Vincent Foster's death, so may I ask if you ever think about whether you could have helped avoid that tragedy by talking out his problems with him?

A. Absolutely, I think about that. We knew each other since I was four years old. Vince worked daily with Hillary [in a law firm] in Little Rock. But he was always so quiet and unassuming . . . that months would go by when we wouldn't have any contact. So his persona made it more difficult to see that he was profoundly depressed. When he worked here [as White House deputy counsel] I knew he had been under a lot of stress. I called him the night before he killed himself and asked if he wanted to come back and watch a movie. He said he was already at home and didn't want to leave his wife and return to the White House.

Then, he said, " I want to talk to you about something." And I said, "I want to talk to you about some things."

That was Monday. I told him I was busy on Tuesday and asked to meet him on Wednesday. He said, "Sure," and sounded very calm. I don't know whether, at that time, he had already decided to kill himself. And I don't know whether I could have helped.

I hated that I was insufficiently aware that he was going through that kind of pain, and I feel very bad that I missed it. You know, at that time, [July 1993] we were all getting beat up very badly. Everybody was sort of bruised and also amazed that the press coverage was the way it was. Still, I showed up everyday for work and I thought that's what Vince was doing. We thought we would work our way through it.

I still remember the last time I saw Vince. He was standing with his hands folded, over there at the back, to the right [Mr. Clinton pointed to the Rose Garden] during the ceremony when I nominated Louis Freeh as FBI director. Vince was pleased about the selection. He thought it would be well-received in the country and in Congress. [That was on Tuesday morning, July 20. He was found dead that evening.]

Q. Do you agree with Vince Foster's alleged suicide note, in which he scribbled that ruining people is considered sport in Washington, D.C.

A. Well, Vince was a proud person. He was a successful lawyer and everyone who knew him respected him. He was a good and highly ethical person, whether or not you agreed with his politics. And to get the kind of licking from the editorial pages of one newspaper bewildered him.

In retrospect, I didn't handle it well. I told him the attacks should not worry him so, but he must have been taking them more seriously than I knew.

Apparently, this is what happened to Adm. [Jerry M.] Boorda. There are other victims of smear campaigns who would not go that far. But they are still left with lifetime scars because of mean-spirited attacks.

It is particularly painful because they know many of these attacks register with the public even though the attackers often have no reason to attack. The smear campaigns have gotten too personal.

You know, if I win re-election, I hope to find ways to minimize the destruction and the unfair, subtle personal attacks because our country needs more civility.

Q. How concerned are you about the decline in civility in the nation today?

A. Very much so and I'm constantly trying to do something about this loss of civility and the impact it has—dividing us one against the other. Too often the debate goes, "If you disagree with me, you must be no good." Or,"If you can't prove yourself innocent of whatever I decide to charge you with today, you must be guilty."

Q. Given the relentless attempts at character assassination, why do you want a second term here in the Oval Office?

A. Because I can divorce those attempts from this job. They are called character assassination. There is nothing any person can say or do that can affect my character one bit. My character will be judged by what I do and will be judged ultimately by my God, not by any of these people who criticize me. They may assassinate my reputation, but they can't lay a hand on my character. Whether it's good or bad or somewhere in between, their ability to influence it or impact on it is nil.

Q. How has your presidency influenced your spiritual life?

A. It has tested my spiritual life. But at times the presidency has been good for my spiritual life because I realize I was not smart enough to make a lot of these decisions on my own. I realize that no matter how hard I work or what kind of brain God gave me, I cannot think my way through or calculate entirely some of these decisions. I have to feel what is the right thing to do and do it. And to do that, I have to be spiritually

grounded. If I go through a week when I neglect my spiritual life, I can feel it. Little alarms go off and I try to get back in my groove.

I also spend a lot of time thinking about the relationship of personal morality to public purpose and public life. When I was younger I read Reinhold Niebuhr's " Moral Man and Immoral Society" and Max Weber's "Politics as a Vocation." They both had a profound impact on my feel for the moral, spiritual challenges to people involved in politics.

Q. Turning to the economy, is the 2.5% growth of the GNP enough to satisfy the needs of the American people?

A. We would be better off if we could grow a little faster. If we grow at 2.8% to 3%, for a period of three or four years, perhaps we could bring more private sector growth and job opportunities to isolated inner city areas and rural areas; and we could see genuine increases in incomes for all groups. Then we wouldn't have this continuing inequality of income that we've seen in the last few years.

But the truth is, no one knows what the optimum rate of economic growth without inflation is. The only thing I tried to do in dealing with the Federal Reserve was to show that I would be responsible in getting the deficit down, but I didn't want them to get in the way of economic growth. What I hoped we could do is develop a relationship where I did not interfere with the Fed's decisions, that they would be governed by a philosophy that basically would move on the evidence, and not on some old theory about how the economy operates. With so much global competition and technological change, it's possible you can grow faster today without inflation than you could 30 years ago. We just do not know and we need to find out.

Q. Can you explain why you were unable to keep you 1992 campaign commitment for a middle class tax cut?

A. First, it's important to make the point that we made a serious down payment on it. We gave 15 million families a big tax cut through the Earned Income Tax Credit, which today is worth about $1,000 in lower taxes to a family of four with an income of $28,000 or less.

We stopped there because, frankly, after I won the presidency it was obvious to me that the deficit was bigger than I thought it was going to be, that getting it down would be tougher and that we had to get a hold of it. I believed that if I could cut the deficit enough, we would get interest rates down and middle class people would be better off because more jobs would be created and they could then refinance their homes and get cheaper car payments and better interest rates on their credit card payments.

In fact, that's true. Since I've been president, eight million Americans have refinanced their home mortgages at lower rates. So I think I made the right decision. But it was a difficult one because I wanted to do even more. Now, for the last year I've been pushing for a targeted middle class tax cut dedicated primarily to education—the $1,500 credit for people to go to community colleges for two years; a $10,000 deduction for the cost of college tuition; an IRA for people that would permit them to withdraw without penalty for the cost of a college education, a first-time home or a family medical emergency.

I hope these middle class tax initiatives with be adopted by Congress, and I believe they will—either before or after the election. Then, we'll have a fairer tax system, but we'll also have a much more healthy economy than if I had sacrificed deficit reduction in 1993 to cut taxes more.

Q. If you are re-elected, do you expect any tax cuts?

A. Yes, the ones I just mentioned—unless we get them done before Election Day. If we get them done this term, in the context of the balanced budget, I would not expect significant tax cuts in the next term because we must continue until we balance the budget. But we already have enough savings identified to balance the budget and have a middle class tax cut targeted to education and child-rearing.

Q. Your reply indicates you expect to be re-elected. Do you?

A. I'm hopeful about winning the election, but I'm not overconfident by any means. As we do this interview the polls look good, but it is forever until the election. I am working hard as president, and also to be ready for the campaign, but I'm not overconfident. I believe we'll be successful because of our emphasis on the future.

Q. Speaking of the campaign, how do you compare your style with Bob Dole's?

A. Bob Dole is not like me; we're very different. Also, he has never lost an election in Kansas and I lost two [in Arkansas.]

Q. In your estimation, what are his strengths and his weaknesses as a campaigner?

A. I think Sen. Dole is a good campaigner, a very tough and effective one, and I expect him to do rather well. I'm also impressed with his patriotism. He was severely wounded in World War Two and could have become indifferent and bitter but he became a fine senator and public servant. You know, I think it's healthy to say positive things about competitors. I don't mind Senator Dole saying anything he wants to about how he thinks I was wrong on the budget or the Brady Bill or about any issue on which he disagrees with me. I look forward to a vigorous debate.•

IN MEMORY AND HONOR OF HART T. MANKIN

• Mr. WARNER. Mr. President, I rise today to recognize the dedication, public service, and patriotism that personified the life of Judge Hart T. Mankin. Hart T. Mankin, an associate judge on the Federal Appellate Court of Veterans Appeals, passed away on May 28. I knew Hart well, having worked closely with him at the Pentagon during the turbulent years of the Vietnam war.

Hart served as the General Counsel to the Department of the Navy from 1971 to 1973. It was my privilege to first serve as Under Secretary of the Navy, and then Secretary of the Navy during this same time period. I remember Hart as a hard working, dedicated man, who gave his time, talent, and efforts to the service of his country.

Judge Mankin is survived by his wife Ruth, to whom he was married for 42 years, and three children—Margaret Mankin Barton, Theodore Mankin, and Susan Mankin Benzel. He was also a grandfather to four lovely granddaughters.

Hart's son, Ted, delivered the eulogy at his father's funeral service. I believe the words he used to honor his father's memory are very touching, and I ask that they be inserted in the RECORD.

REFLECTIONS OF H.T. MANKIN

The great jazz musician Count Basie once said, "To make great music, it is not the notes you play, but the notes you don't play." I would like to think that my father made his music or lived his life the same way.

Dad's quiet strength and confidence affected everyone and everything he touched.

As a child growing up, whenever the we wondered how Dad could accomplish a certain feat, he would respond "Clean living." And you know what He was right.

While never claiming sainthood or looking for credit or attention. Dad's humility contributed to the strength other derived from him.

Dad could have been considered unemotional at times, but he was quite the contrary.

Always centered and anchored, Dad's emotions weren't symptomatic or reactionary, but honest and heartfelt.

At work, his calm transcended the litigious. At home, his calm transcended partisan politics.

His methodical thorough approach to life helped us all look before we leapt.

LISTEN

That was one of Dad's secret. Whether it was personal, work, or any other kind of problem, Dad listened. He might help you find your path, but would never push or force you into any decisions. But once your decision was final, he would support you to the end.

To Dad, the philosophical, the intellectual, the theological or spiritual were inextricably one. Any one movement to one side of the triangle affected the other two sides.

And Dad constantly pursued the truth, and at times defined it legally; and at other times left the truth open ended. The gray areas intrigued Dad, making him hungry for more interpretations.

Not that Dad didn't have his light side as well. Anyone who knew Dad, knew his dry sense of humor was clever yet playful. We all appreciate the time Dad spent doing his small part to save Delaware's Mountains.

Which brings us back to strength, this time strength of convictions. In our family, to get a word in edgewise is a feat in and of itself. But Dad, always choosing his words carefully, spoke softly and always above the fray.

Every word he spoke was very deliberate, well thought out, and almost always correct. One did not guess or take shots in the dark with Dad. Come prepared before you make your point. What some men say in 200 words, Dad could say in 20 words.

On the other hand, Dad did not wear blinders, and always listened to every point of view. Because of his rare gift to carefully consider every vantage point, he gradually was recognized outside of his immediate family and peers as someone who might really possess the truth. Some may consider this blasphemous, but to many of us right here, he was the truth.

To Dad, humanity was the coexistence of all through the truth. Humanity didn't just mean kindness or tranquility, it meant everyone striving for the truth and how it applied to their own particular life.

Dad taught from legal and religious texts, but what most learned from Dad came from the discipline in his demeanor.

We learned from my Dad, Hart Mankin, that truth and beauty can be found in Maritime law, Milton, or a Texas Straw Hat.

God will help Dad uncover the truth, and we will continue his journey. Dad we love you and miss you already.•

U.S. CAPITOL HISTORICAL SOCIETY DINNER HONORING THE SENATE ARMED SERVICES COMMITTEE

• Mr. NUNN. Mr. President, on September 17 the U.S. Capitol Historical Society hosted a wonderful dinner honoring the Senate Armed Services Committee as the Committee celebrates our 180th anniversary. For those who may not be familiar with the history of the Senate committees, the Senate established the Committee on Military Affairs and the Committee on Naval Affairs in 1816, and these two committees were replaced by the Armed Services Committee in 1946.

Under the leadership of former Congressman Clarence Brown, the Capitol Historical Society does an outstanding job of preserving the history of the Congress and promoting and encouraging the public's interest in this great institution. I want to express my appreciation to Congressman Brown and the staff of the Capitol Historical Society for the delightful evening honoring the committee.

Mr. President, the featured speaker at this dinner was Dr. James Schlesinger, a man who has made an enormous contribution to our national security.

I have know and worked with Jim Schlesinger since I came to the Senate in 1973. Over the years he has testified numerous times before the Armed Services Committee—both as a cabinet official and as a private citizen whose advice and counsel the committee has repeatedly sought on most of the difficult national security issues we have faced over the years. All of the members of the Armed Services Committee—both Democrats and Republicans—regard Jim Schlesinger as one of the pillars of this Nation's security.

In my remarks at the dinner, Mr. President, I recalled a Senate resolution which the Armed Services Committee and the full Senate adopted in 1975 and which I coauthored with our late colleague Senator Scoop Jackson. It was Senate Resolution 303, and it read:

Resolved, That the Senate of the United States commends Secretary of Defense James R. Schlesinger for his excellence in office, his intellectual honesty and personal integrity, and for his courage and independence. The Senate believes that our country and the free world owe a great debt of gratitude to Secretary Schlesinger for his untiring efforts to improve the efficiency of our armed forces, the cohesiveness of our alliances, the wisdom of our strategic policies and doctrine, and for his determination to convey to the American people the truth as he saw it and the sense of the future he so deeply believed they must understand.

Mr. President, those comments about Jim Schlesinger are as true today as they were when the Senate passed this resolution in 1975. As I end my Senate career, I want to thank Jim Schlesinger for his tremendous contributions to U.S. national security and foreign policy and to me personnally.

I ask unanimous consent that Dr. Schlesinger's remarks to the Capitol Historical Society dinner honoring the 180th anniversary of the Armed Services Committee be included in the RECORD at the conclusion of my remarks.

Mr. President, I also want to note for my colleagues that the Center for Legislative Archives of the National Archives will soon be publishing a history of the Armed Services Committee by historian Richard McCulley. All of us on the Armed Services Committee are very excited about this project and eagerly look forward to its completion.

REMARKS OF THE HONORABLE JAMES R. SCHLESINGER, UNITED STATES CAPITOL HISTORICAL SOCIETY DINNER HONORING THE 180TH ANNIVERSARY OF THE SENATE ARMED SERVICES COMMITTEE, SEPTEMBER 17, 1996

I want to join Bud Brown in welcoming you to this evening's festivities run by the U.S. Capitol Historical Society, chartered by Congress with the uphill responsibilities of preserving American history.

Why are we here this evening? We are here this evening to celebrate the 180th anniversary of the founding of the predecessors of the Senate Armed Services Committee and to honor the committee for its exemplary service to the nation. Actually, the Senate Armed Services Committee is only 50 years old—created as a result of the Legislative Reorganization Act of 1946, which Bud Brown's father was instrumental in bringing about to create the Hoover Commission.

As all of you know, the Preamble to the Constitution—"We the People"—Article I of the Constitution assigns to the Congress the responsibility to raise and support armies and to provide and maintain the Navy. In turn, that responsibility is entrusted by both Houses to their Armed Services Committees.

As I said, this is the 50th Anniversary of this committee. Its predecessors trace back to 1816, back even to the Continental Congress itself which maintained such close daily supervision over General Washington. That close daily supervision is increasingly emulated by the current Congress.

Founded in 1947, the Congress preceded the Pentagon in achieving unification of the Armed Forces. Indeed the chairman of the Armed Services Committee is senior to the Secretary of Defense. In fact, the committee provides a channel for communications. It is sometimes difficult to communicate to one another. As you know, this difficulty in communication is reflected in the fact that different services do not use words in the same way. Take for example that simple English verb—secure. It has different meanings for each of the services. To the U.S. Navy, secure as in "secure a building" simply means to turn out the lights and lock the door. To the U.S. Army, secure means seize and hold. To the U.S. Marine Corps, it means attack and destroy. And, to the U.S. Air Force, secure means a three-year lease with option to buy.

Ladies and gentlemen, I shall pass over such sensitive issues from the past as the committee hearing on General Custer's actions at the Battle of Little Bighorn, the Civil War (sometimes referred to as the Late Unpleasantness), Billy Mitchell, or the firing of Douglas MacArthur. Those last hearings, I believe, took place in this Senate Caucus Room.

I turn to two subjects. The first—the characteristics of the Committee. And secondly, its substantive activity.

As you know, the existence of the Senate Armed Services Committee more or less coincides with the Cold War. As a consequence, the Armed Services Committee has attracted the giants of the Senate. Richard Russell himself after whom this building is named, was actually the second to chair the Committee. John Stennis, who died last year, and who declared in his 1947 race, "I want to plow a straight furrow right down to the end of my row." And that he did. Both Russell and Stennis served as Chairmen of the Armed Services Committee and the Appropriations Subcommittee—a practice now prohibited because it looks as if it is an inside operation.

But there are other giants—Scoop Jackson, Barry Goldwater, Leverett Saltonstall, John Tower, not to mention our co-host of the evening—Strom Thurmond, the present chairman. You may not believe this, but Strom and I both received our degrees from the University of South Carolina on the very same day. Sam Nunn—the ranking Democrat—has been an illustrious chairman for so many years and my trusted friend for this past quarter century. I have not mentioned some of the 35 members of the Committee I have known over the years.

The second characteristic of the Committee is that it is heavily Southern, as you may have known from the Chairman. My calculation of the 50 years this Committee has been in existence —42 have had Southern chairmen. The South, as you know, is the only part of this country with a historic memory of being subjected to military occupation. In the South, it has been determined that fate would not come to this nation as a whole. Georgia, South Carolina—I liked to believe that the last and best service performed by the late great William Sherman was to create the tradition of Southern dedication to national security. I know many of you will appreciate that, but our friend from Ohio won't.

The third element in this Committee's history is its bipartisan tradition. Strom Thurmond exemplifies that tradition in an exceptional way. The first six years he was on this Committee, he was a Democrat. The last 30 years he has been a Republican. That bipartisan tradition may reflect the affinity that Southern Democrats had for the Grand Old Party.

Senator Nunn, during the recent ceremony at the Pentagon, thanking him for his service, in his invocation commented that, in his experience, nothing is accomplished in Congress unless it is on a bipartisan basis. During the period of Republican dominance during the early 1980s, he was the driving force in creating this more integrated Pentagon.

My first connection with this Committee was with Scoop Jackson. When I was still at the RAND Corporation, Scoop Jackson asked me for an assessment of systems analysis as it was practiced at the Pentagon under Secretary McNamara. Scoop tended to be harder on Democratic Administrations than on Republican Administrations.

The fourth characteristic of this Committee is that it's conservative. The Democrats score lower than other Democrats on the ADA scale of liberalism. Republicans score

lower on that ADA scale than do other Republicans. And it's on that conservatism that I had to rely, in those years that we needed support, those happy days, Vietnam and the aftermath of Vietnam.

But this Committee is conservative in a different and special sense. It recognizes that there are no free rides. The Committee knows that international engagement is not free—that one needs careful preparation. This Committee has learned through this bitter experience. It needs a more than adequate structure. It needs modernization, training and above all readiness, so that the United States is not put through the embarrassment it was put through at the start of World War II.

Since the end of the Cold War, there has been a public tendency to treat American leadership in the world as just another entitlement. It is not. American leadership requires more than rhetoric; it requires continued effort and sacrifice.

The final characteristic of this Committee is that it is the protector of the military services. It is historically wary of Defense Secretaries who might neglect or abuse the institutional requirements of the services.

Let me turn for a few moments to the substantive activities of this Committee.

Foresight. We must go back to the 1930s, before the Senate Armed Services Committee existed in its present form. There was Carl Vinson—the Chairman of the Committee on Naval Affairs. When the great uncle of Sam Nunn, who in the late 1930s managed to pass the Vinson-Trammell Act. The Act authorized ship construction monies despite the ample federal deficit. And as a result of the Act, the carriers that were created included the Yorktown, which was launched in 1937; the Enterprise in 1938; and the Hornet in 1941—all before Pearl Harbor. Those are the three carriers that won the battle of Midway. Without that legislation, we would have lost the battle of Midway. The Japanese could have cruised along the Pacific coast of the U.S. That would have made it difficult for the U.S. to win that war.

We mention this although today it is fashionable to object to deficit spending in all of its forms. If we would have had an annually balanced budget then, we might have lost World War II. An annually balanced budget may be a high priority, but it is not the first priority of this nation.

When our conventional strength was eroding, during the period when the President was negotiating the Salt II agreement, this Committee, on a historical and bi-partisan basis, asked the administration to increase defense expenditures for conventional forces and to rebuild our stockpiles of conventional ammunition, on the penalty of the loss of support on a bipartisan basis for SALT II. That is followed by the Reagan build-up and those actions paid substantial dividends during the Gulf War. The inventories were full, and we were ready. Fully mission capable rates for the U.S. Air Force for all aircraft during that war was 90 percent. By contrast in World War II, the mission capable rates were no higher than 50 percent for any length in period, and in the Carter years, for the B-52s. The rate was 40 percent for fighter aircraft.

The Senate Armed Services Committee has not always been triumphant. In the 1950s, they repeatedly tried to force the B-70 bomber on the Eisenhower Administration. The Committee failed in its effort, but of course not every President is an allied member in Europe, conqueror of Hitler, a 5-star general and chief of staff of the Army. The Committee has been more persuasive with other presidents. And I'm happy to say that the B-52s are doing alright.

Let me close with some additional observations. These are comments about the present and the future. At the end of the Cold War, there has been a massive shift of power within the U.S. as Congress is reasserting its prerogatives—and a resurgence of power toward the Congress. Constitutional limits that were ignored are being restored. From the time at Pearl Harbor until roughly the time of the Tet Offensive in 1967, the Congress regularly deferred to the President; that pure deference is now over. Congress must resist the temptation by any Congressional majority to embarrass the President. There is danger these days that everything becomes final for politics.

Second, the U.S. is a rather odd country to serve as a world leader. It is not as ruthless as some of the former imperial powers including France, as well as Germany and Japan. The U.S. was ideally suited for the task of the Cold War in which there was a long-term military threat, unchanging year after year that the public would focus on. Now there are numerous but petty threats—clashes of nationalism—clashes of ethnic origin. The rest of the world does not understand the U.S. Constitution, does not understand separation of powers and does not understand that in this country to conduct foreign policy, we need to have a consensus. We need to have public acquiescence in that foreign policy. It makes the U.S. as the great ruling power of the world somewhat different from anything in the past. Leadership is not an entitlement; it must be earned each year, each decade. And leadership can be costly. As long as offense and expenditures are being maintained in this country, other nations and other groups will be driven to terrorism as the only way to strike at the United States. Terrorism may be unpleasant, but it is less unpleasant than war.

Leadership implies choices—choices that we must avoid being over committed. We have spread forces in recent years; Saddam Hussein had noticed this recently. We have spread our political capital even thinner. Why do I say that? One must not overload the American public with international obligations, for the public will no longer accept it. Whatever we may say, whatever we may proclaim that we're not going to be the world's policemen, too frequently we become the world's policeman. As Sullivan proclaimed it, "A policeman's lot is not a happy one."

We accommodate dependents. And we cannot afford to accumulate dependents. We develop public hatred for them. We cannot come to any accommodations for them. We must shed both. Being the world leader is difficult. We must retain a technological edge. The American public is not eager to sustain high casualties for what appear to be petty purposes. And therefore, in order to hold casualties down it is essential for us to maintain a technological edge. The problem, though, is that we tend to reveal our technologies. We reveal all, as we did during the Gulf War. We showcase our technologies. Everybody now understands the global position that existed. that is the price that must be paid when American forces go to war. We can never rest from our past accomplishments. Finally, ladies and gentlemen, once again, as always, eternal vigilance remains the price of freedom.•

ROMANIAN-HUNGARIAN BILATERAL TREATY

• Mr. LUGAR. Mr. President, I rise to draw the attention of the Senate to the signing by the Governments of Hungary and Romania of a basic bilateral treaty intended to normalize relations and resolve longstanding border disputes and ethnic rivalries between the two countries.

The Prime Ministers of Hungary and Romania signed the bilateral treaty on September 16 marking an important step toward insuring peace and stability in Central Europe. Their signing represents the culmination of several years of difficult negotiations and, when ratified by both countries, will help ease centuries of conflict and tension between these neighbors.

The treaty obligates both countries to respect the basic civil rights and cultural identities of minorities in each country. Educational and linguistic guarantees and other communal protections are enshrined in the treaty. When ratified and faithfully implemented, the resolution of border disputes and respect for the rights of minorities that are embodied in the treaty will be an important model for other countries with comparable ethnic and nationality problems. Further, the treaty will move each country closer to satisfying requirements set for successful integration into western institutions, including membership in the European Union and the North Atlantic Treaty Organization.

As Romania and Hungary continue to strengthen their democratic institutions, develop free-market economies, and ensure respect for human rights, their governments and the political parties supporting this process are to be commended for taking the political risk required to reach an agreement on this treaty. It is a significant example of two nations putting the best interests of regional stability ahead of domestic political interests.

Therefore, Mr. President, I want to congratulate the governments and peoples of Hungary and Romania for successfully reaching agreement on this historic bilateral treaty.•

DAVID ABSHIRE

• Mr. NUNN. Mr. President, as this Congress and my own career in the U.S. Senate come to an end, I want to pay tribute to a distinguished American who has been of great assistance to me, to the Senate, and to our Nation, Ambassador David Abshire.

During my career in the Senate, David Abshire has been one of the leading figures in the national security field in the United States. Although he is probably best known for his service as our Ambassador to NATO and as the founder and president of the Center for Strategic and International Studies [CSIS], these are just two examples

from his career of service to our Nation.

David Abshire was born in Chattanooga, TN in 1926. He graduated from West Point in 1951 and served with distinction in the Korean war, as a platoon leader, company commander and division assistant intelligence officer. His decorations for service as a front line commander included the Bronze Star with Oak Leaf Cluster with V for Valor.

In 1959 he received a Ph.D. in history from Georgetown University, where he returned to serve as an adjunct professor for many years.

In the early 1970's, he served as Assistant Secretary of State and later as chairman of the U.S. Board for International Broadcasting. He was a member of the Murphy Commission on the Organization of the Government, the President's Foreign Intelligence Advisory Board, and headed President Reagan's National Security transition team.

During the Reagan administration he served with distinction as the U.S. Ambassador to NATO, the North Atlantic Treaty Organization. Dr. Abshire served in this position during a very challenging period when the Soviet deployment of SS-20 missiles led to NATO's deployment of the cruise missiles and the Pershing missile. Ambassador Abshire's efforts bore fruit when the U.S. deployment led to the first major arms reduction treaty, the INF treaty. For his service as Ambassador he was awarded the Defense Department's highest civilian award, the Distinguished Public Service Medal.

I had the opportunity of working with David Abshire during his tenure as Ambassador on several important issues, including my amendment to force our NATO allies to contribute their fair share to our common defense, and on the NATO Cooperative Research and Development program.

In 1987, after finishing his service as Ambassador, he served as Special Counsellor to President Reagan. It is not surprising that a man to whom so many of us have turned for wise counsel and advice should be called on by the President of the United States as a Special Counsellor.

David Abshire's contributions to the national security field are not limited to his Government service. In recent years Dr. Abshire and CSIS have continued to stimulate debate and discussion on important foreign policy issues such as our policies toward Bosnia and China.

Dr. Abshire's talents have extended beyond Government service and academia to benefit our Nation in other areas as well. He is a member of the Council on Competitiveness, the Council on Foreign Relations and the International Institute for Strategic Studies, to name but a few of the organizations who have sought out his talents.

Dr. Abshire is also an author, and I want to call special attention to his most recent book, "Putting America's House in Order." This book demonstrates Dr. Abshire's keen grasp not just of matters of national security, but of the whole range of issues from deficit reduction to investments in, and reforms of, our education and training policies, that are necessary to put our Nation's house in order.

In 1991, under Dr. Abshire's leadership, CSIS created the Strengthening of America Commission to address these issues. I was honored that Dr. Abshire asked me and my friend and colleague from New Mexico, Senator PETE DOMENICI, to serve as co-chairs of this commission. I am very proud of the Strengthening of America report that our commission released in September of 1992 and am grateful to David Abshire for his leadership in creating this commission and seeing it through to a successful conclusion.

The work of the CSIS Strengthening of America Commission exemplified the best of David Abshire—long-term thinking and a keen insight into the fundamental issues facing our Nation. Our report challenged not just Government but our schools, our businesses and our parents to take the steps needed to secure a prosperous future for our Nation. We laid out a plan of action to get our fiscal house in order; to raise our level of national savings and our level of public and private investment in both physical and human capital; and to improve the way Washington works.

It is with great pleasure that I end my Senate career with a public thank you to a man who has contributed so much to U.S. national security and foreign policy and to me personally, David Abshire. I wish David, his wife Carolyn, and his family all the best.•

GRAZING OPERATIONS IN GRAND TETON NATIONAL PARK

• Mr. THOMAS. Mr. President, I rise to express my desire to work with the National Park Service to address the issue of open space in the Teton Valley and its interrelationship with grazing in Grand Teton National Park. Since establishment of the park in 1950, a limited number of local ranchers, who had grazing privileges within the boundaries of Grand Teton Park before its establishment, have been allowed to continue to graze within the area. These grazing permits were given for the life of the designated heirs of the permit holders who were local ranchers that required the summer range to maintain their ranches.

This arrangement has not only benefitted the ranch families involved, but helped support the ecology in the park and preserved open space in Jackson Valley for visitors to this unique region. Unfortunately, in the past few years, both of the designed heirs to these grazing permits have died. Although both families have expressed their interest in continuing to ranch in Jackson Valley, the Park Service may be forced to terminate these grazing permits unless a reasonable solution can be found. Without the summer range available in the park, these ranchers may be forced to end their operations and sell their ranches. If these ranches are sold, they would be immediately subdivided and developed and the open space provided by these areas would be gone forever.

It is an imperative environmental issue that we work to ensure that open space is preserved in and around Grand Teton National Park. This region is truly unique and it is vital for both the wildlife living in and around the park and the environment throughout the region that open space is protected. Unless the ranchers are allowed to continue grazing in the park, the region will be threatened with development that will harm the wildlife and the ecology in and around the park.

In the coming months, the Wyoming congressional delegation plans to work with the National Park Service, the ranch families, the environmental community and local citizens to develop a solution to this situation. By working together, I am hopeful we can continue to protect the open space in this magnificent region and continue an activity that has been monitored and managed by the Park Service for over 45 years. Make no mistake about it, ending grazing operations in Grand Teton National Park will be harmful to park resources, wildlife in the area and will destroy open space for visitors to this outstanding region. I look forward to working with the National Park Service in the coming months to address this critical matter.•

MILITARY QUALITY OF LIFE

• Mr. WARNER. Mr. President, I rise today to discuss an issue that has troubled me greatly over the years and has recently become an even greater problem as our Nation strives toward a balanced budget. This is the issue of the quality of life of our service men and women.

As a former enlisted sailor in the Navy, a commissioned officer in the Marine Corps, and Under Secretary and Secretary of the Navy, I have a particular empathy for our men and women in uniform. These men and women make sacrifices every day, throughout their careers, in defense of our nation. However, the pay and benefits that they receive, which in some cases are woefully inadequate, are constantly under attack by people and organizations that are too focused on the bottom-line and not on the morale and readiness of our Armed Forces. It is for this reason that I, as a senior member

of the Armed Services Committee, sleep with one eye open in order to protect the benefits which our service members and veterans have earned through loyal and patriotic service to our Nation.

I have worked hard, together with my colleagues on the Armed Services Committee, to provide increased funding to improve the quality of life of our Armed Forces. In particular, we have been concerned about the lack of adequate funding for the maintenance of military housing. Many of our service members and their families are forced to live in substandard housing. In testimony before the Armed Services Committee this year, Department of Defense officials testified that a full 80 percent of military housing falls below Department of Defense standards. The result of years of diverting maintenance funds to other requirements is military housing units with leaky plumbing, flaking paint and broken appliances. Our service members deserve better!

That is why I was so concerned to see two articles in the most recent editions of the Navy and Army Times which describe further inequities for our service members in the area of military housing. I ask unanimous consent that these articles be printed in the RECORD.

The first article concerns a report by the General Accounting Office, dated September 17, 1996, which recommends that military families should begin paying rent for living in Government quarters. The report suggests that the rental payments are not primarily to raise money from military families, but to treat all service members equally whether they live on or off base. It is unfortunate that GAO's recommended solution to fix what they perceive to be an inequity is to raise the out-of-pocket expenses of the families living on-base, rather than increase the housing allowances to an adequate level for those living off-base. GAO's first response is to cut benefits to our Armed Forces.

I was pleased to see that the Pentagon opposes this idea. I will work with my colleagues on the Armed Services Committee to ensure that this GAO recommendation is not adopted.

The second article concerns a recent ruling by the General Accounting Office that a service member who is required to move because of renovation or construction of their base housing, is not eligible for a dislocation allowance to cover the expenses of that move. This is an issue of basic fairness. How can the Government, in good conscience, order a military service member to uproot and move his or her family and all of their possessions, but not pay the expenses of that move? This is another example of the constant attack on the benefits of our service members.

I will work with the Pentagon to try to find a solution to this problem. It is my understanding that the Pentagon had been paying service members a dislocation allowance for these moves prior to the GAO ruling. I am hopeful that a quick solution can be found so that service members will not have to bear the cost of these moves. If necessary, I will introduce legislation next year to correct this unfair practice.

Mr. President, it is time that we end this continuous assault on the quality of life of our Armed Forces. It is a question of fairness and respect for those that so selflessly serve our nation and defend the freedom that we all hold dear.

[From the Navy Times, Sept. 30, 1996]

PAYING RENT ON BASE? GOVERNMENT REPORT SAYS ALL SHOULD PAY

(By Rick Maze)

Military families should begin paying a modest rent for living in government quarters, according to a new congressional report.

The rental payments are being suggested not so much to raise money from military families as they are to treat all service members equally, whether they live on or off base.

But the underlying reason is that the rental payments would eliminate the attraction of living on base for many military members, and that would result in huge savings for the government

The "rent" would vary by rank and location, but would average $2,016 a year, according to the Sept. 17 General Accounting Office report. That is the same amount as the average out-of-pocket cost for service members with families living off base, whose housing allowances are set to fall roughly 18.5 percent short of covering the full cost of lodging and utilities.

NO RENT CHECKS JUST YET

Rent checks won't be required any time soon, because the report was delivered to the Senate Armed Services personnel subcommittee just weeks before Congress was scheduled to adjourn.

But the recommendations will play a part in the debate next year over both the planned overhaul of the military housing allowances and the Pentagon's continued push to improve housing conditions, both on and off base.

In recommending the on-base rents, auditors from the bipartisan congressional office said it isn't fair that people living off base must pay out of their own pockets for housing while people in the government quarters live rent-free.

But the real reason the bipartisan office is pushing the idea is the belief that charging even a modest amount for living in military family housing could save money. That's because rent-free living is one of the major attractions of living in government quarters.

If there is no financial difference between living on or off base, the government might be able to reduce its housing inventory. That would save money, the report says, because it costs the government an average of $4,957 more per year for each family living in government quarters than it costs to subsidize families living off base.

DOD SAYS "NO"

The Defense Department opposes the idea, saying the rent would have "potentially severe consequences for military retention and readiness, a sit would equate to a reduction in benefits for those personnel."

In an official response included in the GAO report, defense officials said the "only viable alternative" is increasing housing allowances to eliminate unreimbursed expenses for those living off base.

But that is not likely.

It would take about $1.4 billion a year to raise housing allowances by enough to eliminate out-of-pocket costs for people living off base, defense officials said. It would cost $322 million a year to reduce average unreimbursed housing expenses to 15 percent, the goal of the current allowance system.

The point of the GAO report is that the services could and should rely more on the private sector to provide housing and eliminate some family quarters. The one exception, according to the report, is that more on-base housing should be dedicated to junior enlisted members with families, who have the greatest difficulty finding affordable off-base housing.

Defense officials said they will leave decisions about who gets on-base housing to installation commanders. In some cases, junior enlisted personnel get priority. But in most places, career service members whom the services want to retain are given on-base housing ahead of junior members, defense officials said.

There are some locations with more on-base housing than necessary, defense officials said.

Construction plans have been modified to prevent overbuilding, but any existing housing that can be economically maintained will be kept open.

[From the Army Times, Sept. 30, 1996]

MILITARY WON'T PAY FOR YOU TO MOVE OUT OF WAY—YOU'LL PICK UP TAB FOR RELOCATING FOR BASE HOUSING RENOVATIONS

(By Andrew Compart)

The good news: The military is fixing the housing at your base.

The bad news: Although the military is forcing you to move because of renovations or new construction, it cannot pay you a dislocation allowance to cover your expenses, the General Accounting Office ruled Sept. 11.

The dislocation allowance, designed to help military people offset the costs of forced moves, is only intended for use when a move is required because of a permanent change of station or an evacuation, the GAO Comptroller General's Office said in its decision.

The military can use other funds, such as money designated for operations and maintenance, to help people pay for "mandatory" items, such as charges for hooking up the telephone and other utilities, the ruling said. But even that money cannot be used to help offset the cost of "personal" items, such as drapes or rugs.

COULDN'T AFFORD "ANYTHING DECENT"

The GAO ruling came in a case involving Air Force SSgt. Daren Pierce at Mountain Home Air Force Base, Idaho, after the financial services officer for the base's 366th Comptroller Squadron asked for a decision on the issue.

Pierce said he was one of many people to complain when they found out they couldn't get the dislocation allowance, which is a lump-sum payment equal to a person's basic allowance for quarters for two months. He spent $150 to $200 for blinds at his previous home, and though he could scarcely afford it, he spent $120 on the cheapest blinds he could find for the new home.

Pierce said he would have been satisfied with a partial dislocation allowance. "I'm

not out there to get a bunch of money. But I feel we should be reimbursed for what our expenses were," he said, adding that he believes the housing construction is necessary for people at the base.

Mountain Home is replacing 52 of 612 1950s-era family housing units with two-bedroom homes for junior enlisted people, a project that began in mid-February. Eventually all units will be replaced, said Senior Airman Sonja Whittington, a base spokeswoman.

The base left some homes empty in anticipation of the reconstruction, and it met with the other families in "town meetings" to answer questions about their impending moves. The base paid for movers and expenses such as telephone and cable television connections.

Initially the base also paid the dislocation allowance to 12 of the families, Whittington said. But within a week the base was told by the Defense Finance and Accounting Service that it had made a mistake, according to Whittington and the GAO summary of the case, and the base had to ask the families to give the money back.

"It's unfortunate there was an error, but getting brand new housing is a nice thing," Whittington said. "We tried to make it as easy on our people as we could within the guidelines."

It is not known how often complaints about unreimbursed expenses arise. Richard Hentz, in charge of programming for Army family housing construction projects, said the issue never has been raised with him.

At Fort Knox, Ky., where housing renovations are scheduled to begin Nov. 1, officials stopped moving people into homes that are to be renovated. But even still, more than 400 families are being affected, said Peter Andrysiak, chief of the base's housing division.•

MICHIGAN'S UPPER PENINSULA FIREFIGHTERS

• Mr. ABRAHAM. Mr. President, I would like to take this opportunity to recognize the exceptional dedication of Michigan's Upper Peninsula firefighters. These courageous men and women joined forces with firefighters from across the Nation to battle this summer's rampant fires in the West. Countless acres of this country's precious wilderness, as well as untold millions in public and private property, have been saved due to their selfless efforts. Each of these individuals served their State and country proudly, whether administratively or on the front lines. These brave professionals stand ready to protect this country in times of natural disaster and for this, they have earned our respect and admiration.

I am privileged to recognize the following Upper Peninsula residents for their work fighting fires in the Western United States:

Kevin Doran, Bill Bowman, Sandy Pilon, Orlando Sutton, Mike Miller, Don Howlett, Dave Worel, Jane Wright, Roger Humpula, Duane Puro, Judy Moore, Ed Wenger, Jenny Piggott, Terry Papple, Terry Arnold, Paul Pedersen, Don Mikel, Ralph Colegrove, Jerry Terrain, Chuck Oslund, Phil Kinney, Vern St. John, Kevin Pine, Doug Heym, Ty Teets, Joan Charlobois, Jon Reattoir, Alex Jahn, Nathan McNett, Mary Clement, Les Henry, Ruth Ann Trudell, Tom Vanlerberghe, Kerry Doyle, Jon Luepke, Louise Congdon, Rick Litzner, Todd Scotegraaf,John Pavkovich, John Ochman, Lori Keen, Eric Johnston, Dennis Neitzke, Lee Ann Loupe, Rodney Mobley, Ollie Todd, Sharon Makosky, Ernest Hart, Cecilia Seesholtz, Jim Wethy.

Dave Worel, Karen Waalen, Jeff Stromberg, Allen Duszynski, Mike Lanasa, Brenda Madden, Jim Flores, Al Saberniak, Marvin June, Joe Carrick, John Niskanen, Bret Niemi, John Worden, Nichols Wall, Paul Dashner, Pamela Harmann, Paul Cichy, Brunkdoreen Baron, David Trewartha, Mike Syracuse, Tom Strietzel, Aaron Pouylous, Larry Velmar, Jim Dehut, Eric Green Pete Allen, Jason Allen, Eugene Loonsfood, Charles Gauthier, Nathan Avedisian, Robert Pairolero, John Strasser, Bill Genschow, Allen Mackey, John Holmes, Paul Blettner, E.B. Fitzbatrick, Don Palmer, Cindy Miller.

John Kempson, Ben Mireki, Nathan Lainonen, Loren Kariainen, Joanne Thurber, Bobby Joe, Justin Borseth, Allan Wacker, Dan Ryskey, Greg Dove, Mike Dakota, John Lee, Paul Daniels, Brian Blettner, John Tanner, Dave Pickford, Gerry Gustafson, Mary Rasmussen, Lee Rouse, Dale Gordon, Jake Maki, Matt Lindquist, Deb Korich, Bill Reynolds, Jean Perkins, Wayne Petterson, Kay Gibson, Floyd Meyer, Phil Doepke, Steve Chad, Greg Rozeboom, Rob Smith, Robert Garrison Jr., Heather Wettenkamp, Gayle Sironen, Sharon Brunk, Cliff Johns, Robert Wagner, Del Platzke, Jerry Hoffman, Linda Kramer, Chuck Mowitt, Mark Adamson, Shawn Green, Mike Jacobson, Clayton Lord, Joe Cronkright, Adam Hickson, Carmen Allen, Mike Jarvi, Daryl Johnson, Jack Applekamp, Gary Dinkel, Rick McVey, Jay Wittak, Robert Garrison Sr., Joel Enking.

Wayne Young, Mark Douglas, Donald Kuhr, Randy Bruntjens, John Mattila, Ellis Sutfin, Pat Halefrisch, Debbie Begalle, Terry Popour, Richard Annen, Gerald Mohlman, Chester Sartori, John Krzycki, Robert Burnham, Craig Farrier, John Johnston, Charles Vallier, Robert Ziel, Beverly Current, Jeffery Stampely, Gary Willman, Daniel Laux, Jeffery West, Otto Jacob, Kay Fisher, Jason Tokar, Paul Pierce, Brad Johnson, Jack Maurer, Jim Haapapuro, Byron Sailor, John Turunen, Scott Seberd, Michael Slade, Daniel McNamee, Patrick Olson, Steve Adkins, Pete Davis, Debra Huff, Richard Berkheiser, Roger Grinsteiner, Russ MacDonald, Amy Dover, Paul Gaberdiel, Jeff Noble, Chuck Lanning, Brian Mulzer.•

REFORM OF NAFTA CHAPTER 19 DISPUTE PROCESS

• Mr. CRAIG. Mr. President, in preparation for renewed consideration of adding countries to the NAFTA and of fast-track legislation for this purpose, it is imperative, in my view, that action be taken to resolve a serious problem with the NAFTA: The NAFTA Chapter 19 dispute settlement system for antidumping duty and countervailing duty appeals.

In August of last year, nine of my Senate colleagues, including the former majority leader and the chairman of the Trade Subcommittee of the Committee on Finance, expressed serious concerns about Chapter 19 in a letter to then-U.S. Trade Representative Michael Kantor.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. CRAIG. Mr. President, I wish to emphasize that I share the concerns of the authors of this letter and believe that addressing this failed system must be a priority for U.S. trade policy. Under Chapter 19, appeals of determinations that imports are subsidized or dumped into the U.S. market were, for NAFTA countries, transferred from domestic courts to panels of private individuals, which include foreign nationals. The system was introduced in 1988 as a provisional compromise for the United States-Canada Free-Trade Agreement. Although serious reservations were expressed about Chapter 19 at that time, it was accepted on an interim basis with Canada only until disciplines against Canadian subsidies and dumping could be negotiated. Although no such unfair trade disciplines were agreed to, Chapter 19 was, unfortunately, extended to the NAFTA. Its inclusion was a key reason for my vote against that agreement.

Chapter 19's infirmities are several. As the Justice Department indicated in 1988, there are major constitutional problems with giving private panelists—sometimes a majority of whom are foreign nationals—the authority to issue decisions about U.S. domestic law that have the binding force of law. These panelists, coming from different legal and cultural disciplines and serving on an ad hoc basis, do not necessarily have the interest that unbiased U.S. courts do in maintaining the efficacy of the laws as Congress wrote them. Moreover, the ad hoc, fragmented nature of Chapter 19 decision-making can lead to contradictory outcomes, even with regard to a single instance of alleged unfair trade.

In practice, Chapter 19 has revealed itself to be unacceptable. A foremost example is the Chapter 19 review of a 1992 United States countervailing duty finding that Canadian lumber imports

benefit from enormous subsidies. Three Canadian panelists outvoted two leading United States legal experts to eliminate the countervailing duty based on patently erroneous interpretations of United States law—interpretations that Congress had expressly rejected only months before. Two of the Canadian panelists served despite egregious, undisclosed conflicts of interest. The matter then was argued before a Chapter 19 appeals committee, and the two Canadian committee members outvoted the one United States member to once again insulate the Canadian subsidies from United States law.

The U.S. committee member was Malcolm Wilkey, the former Chief Judge of the Federal Court of Appeals for the D.C. Circuit and one of the United States' most distinguished jurists. In his opinion, Judge Wilkey wrote that the lumber panel decision "may violate more principles of appellate review of agency action than any opinion by a reviewing body which I have ever read." Judge Wilkey and former Judge Charles Renfrew—also a Chapter 19 appeals committee member—have since expressed serious constitutional reservations about the system. While some have claimed that Chapter 19 decides many cases well, its inability to resolve appropriately large disputes, and its constitutional infirmity, demand a remedy.

Like my colleagues who wrote to Ambassador Kantor, I believe that something must be done about Chapter 19. I support returning appellate jurisdiction to the U.S. judiciary where it had long rested and still rests for non-NAFTA countries. Alternatively, Chapter 19 perhaps could be reformed to eliminate its constitutional and practical infirmities. It should, at minimum, be clear to executive branch officials that Chapter 19 cannot be extended to any additional country in its current form, be it Chile or any other NAFTA prospect. I look forward to working diligently in the upcoming Congress to correct this serious problem.

EXHIBIT 1

AUGUST 21, 1995.

Ambassador MICHAEL KANTOR,
Trade Representative, Executive Office of the President, Washington, DC.

DEAR AMBASSADOR KANTOR: In light of the advent of the new trade and dispute settlement rules in the agreements establishing the World Trade Organization (WTO), we are writing to express our concern with the current system for reviewing antidumping and countervailing duty cases under the NAFTA.

As you know, the original intent regarding Chapter 19 was that: 1) it would be limited to Canada and quickly phased out; 2) panelist conflict-of-interest rules would be strictly enforced; and 3) panels reviewing U.S. determinations would be bound, like the U.S. Court of International Trade, by U.S. law and its deferential standard of review.

It is clear that these conditions have not been met. Despite earlier assurances to the contrary, the system was extended to Mexico and effectively made "permanent" with respect to Canada and Mexico in the NAFTA. Moreover, the U.S.-Canada softwood lumber case demonstrated serious inadequacies and problems with conflicts of interest and standards of review under the Chapter 19 system.

We believe that because of the intended temporary nature of Chapter 19 and the great controversy it has engendered, the Chapter 19 dispute settlement mechanism should not be extended in future trade agreements to any other country, including the present NAFTA accession negotiations with Chile. This belief is without regard to whether such agreements should be concluded.

Under Chapter 19, ad hoc panels of private individuals rule in place of judges on whether antidumping and countervailing duties have been imposed consistent with the domestic law of the importing country. This requires Chapter 19 panels to interpret and apply national law itself, rather than resolving disputes over the interpretation of international agreements as would normally occur in international dispute settlement like the WTO. These panel decisions are automatically implemented without judicial or political review of accountable government officials.

In light of the WTO's new binding international dispute settlement process, and the Uruguay Round's new agreements on subsidies and dumping, we question the need for a special NAFTA trade remedy. It is our belief, especially in light of past experience, that disputes about U.S. law are best left to the U.S. Court system.

Absent an outright elimination of Chapter 19, which we would certainly consider in a favorable light, substantial attention should be given to reforming Chapter 19 with respect to the current NAFTA. The United States should not agree to extend this fundamentally flawed system to any other country. We trust that you will consider our suggestion in your ongoing negotiations with Chile, and urge increased consultation with the Congress during the process.

We appreciate your consideration of this important matter.

Sincerely,

MAX BAUCUS, DAVID PRYOR, JOHN ROCKEFELLER, JOHN BREAUX, KENT CONRAD, CHUCK GRASSLEY, BOB DOLE, ORRIN HATCH, ALFONSE D'AMATO.●

TRIBUTE TO SHERRY KOHLENBERG

Mr. WARNER. Mr. President, exactly 2 weeks ago on September 16, I was privileged to join with Virginia's First Lady, Mrs. Susan Allen, in the opening of the Face of Breast Cancer exhibit at the Regency Square Mall in Richmond, VA. This dramatic exhibition displays the photographs and life stories of 84 American women who have tragically become the victims of breast cancer. Of those portrayed, four were Virginians: Marianne Thatcher of Arlington, Lorraine M. Smusz of Buchanan, Kyong Ja Kim Pearce of Herndon, and Sharon Helen "Sherry" Kohlenberg of Richmond.

At the opening of the exhibit, the Virginia Breast Cancer Foundation, which together with the National Breast Cancer Coalition sponsored the exhibit, presented the 1996 Sharon H. Kohlenberg Healthcare Service Award to two outstanding individuals for their exceptional contributions in the fight against breast cancer. Those honored were Dr. Claire Carman, a surgeon from Tidewater, VA; and Katharine Spiegel, a nurse from the Medical College of Virginia.

Presenting the awards was Mr. Larry Goldman, husband of Sherry Kohlenberg, and their son, Sammy. In memory of Sherry, Mr. Goldman gave one of the most moving tributes which I have ever heard, and with his permission, I am today submitting it for the CONGRESSIONAL RECORD, not only to share with my Senate colleagues but indeed all of those who have loved ones or are themselves battling the scourge of breast cancer.

The tribute follows:

Sherry didn't want to be a "Face of Breast Cancer." When I met her, she was nineteen, I was twenty-one and we were students at the University of Wisconsin-Madison, she only wanted to be Sherry—happy, independent thinking, caring, life loving Sherry. She loved to just hang out with our friends, share a bottle wine, talk and laugh the night away.

School was important to her. Her interest and ability to master Romantic languages, and her interest in social justice led to her major in Iberio-American Studies. She also liked to get A's and would definitely stand up to a professor who had evaluated her work unfairly.

For her artistic outlet, Sherry was a photographer. She spent hours taking and developing photos that showed her perspective of herself and life. Each finished photograph had to have the perfect gradations of blacks and whites before it was matted as a finished work of art. These are a few of them. The hand-colored photo won first prize in the University of Wisconsin student art show.

Later in her life, Sherry saw a need and had a desire to enter what was at that time very male-dominated world of health administration. She decided to concentrate in the field of Risk Management, setting up policies that kept the costs of health care down so that no one in our society would ever be denied the health care that they needed. At the Medical College of Virginia, she defined the structure and policies of the Risk Management Department. Her warm, caring personality and sharp, quick intelligence made her the perfect person to balance complex issues between patients, doctors and more than once, lawyers. She understood, she cared and she was always fair.

Bright, artistic, professional, Sherry was also, of course, Sammy's mommy and my wife. We bought what was supposed to be our first house over in Lakeside, thinking we would keep it for five years and move to another school district when Sammy was ready for first grade. Sam was suppose to be the first of three children. Sherry had the good job while I wrote, and took care of Sam but we had plans for Sherry to take some time off to spend with the children at some future date. Sherry had plans for a lifetime and when breast cancer started shattering her plans, she simply made more plans.

Sherry was never a victim of breast cancer. She was always a fighter and an advocate. She fought so that the fight against breast cancer would get the funding and attention that it deserved. She fought against policies that harmed women, against policies and attitudes that didn't go far enough in this war.

When Sherry realized that the cancer was stealing her life, she didn't stop fighting. She fought for Sam, for me, for every person and family that was and will be forever battered by this horrible disease. She gave me the support I needed to finish my Masters and become a teacher. With her concern that she create strong memories for Sammy and that he would always know how much she loved him, Sherry contacted her friend, Hillary Clinton, and arranged a White House visit where Sammy met the President and Mrs. Clinton, and made sure that Sammy and I continued to be part of the "Faces of Hope" family. Sherry didn't even let the cancer stop her from taking a trip to Disney World and what she called "that smutzy Disney World" King's Dominion where Sammy remembers getting stuck in smurf mountain with his Mommy. Sherry made sure that the White House had the name and phone number of her close friend Mary Jo Kahn who she knew was an valuable resource in forming breast cancer policy. She cared and worried about all of us, not herself.

Sherry never wanted to be "A Face of Breast Cancer" and she wouldn't have wanted to have an award named after her, she wanted to live, but she would have been honored and proud of both. As a part of the "Faces of Breast Cancer" Sherry will continue being the advocate for breast health. And with this wonderful "Sherry Kohlenberg Healthcare Service Award" given by the Virginia Breast Cancer Foundation, Sherry will always be honoring those who continue the fight, and she would have been especially pleased when close friends like Kathy Spiegle, and those she would have wanted to know like Dr. Claire Carman, are honored. With these honors, Sherry is with us, her voice is heard, her strength supports us, her love is felt, as it always will be until this war against breast cancer is won. Thank you.•

TWIN CITIES-UPPER MIDWEST HUMAN RIGHTS CAMPAIGN AWARDS

• Mr. WELLSTONE. Mr. President, I recently had the honor of attending the annual Twin Cities-Upper Midwest Human Rights Campaign Awards Dinner honoring Ruth and David Waterbury of Minneapolis, and the Northern States Power Co. The work of the Human Rights Campaign, which is dedicated to combatting discrimination, ensuring equal protection for all under our laws, and advancing the interests of gay and lesbian persons in the United States, is one of the most effective organizations of its kind.

The Brian Coyle Leadership Awards, presented to the Waterburys and Northern States Power, are dedicated to the memory of Minneapolis City Council Member Brian Coyle, a community activist and inspiration to many, including to me. He was a friend of mine, and his work to end discrimination is a lasting legacy to the gay and lesbian community in my State, and across the Nation. As a long-time social and political activist myself, I was humbled that night to be in the presence of so many individuals who stand on principle, often in the face of terrific odds and in the face of anger, misunderstanding, bias and even, in some extreme cases, violence against themselves or their loved ones.

Ruth and David Waterbury are two such people. They have contributed much to our community, both as a couple and as individuals. As I have come to know this wonderful family over the years, I continue to be amazed at their tireless and selfless work on behalf of others. Both were board members of the Minneapolis-St. Paul chapter of Parents and Friends of Lesbians and Gays, and Ruth was president for the year just ended. David was chair of the Governor's Task Force on Gay and Lesbian Minnesotans. Ruth is a current board member of District 202. Each has been instrumental in establishing scholarship funds for gay and lesbian students at their respective alma maters, Yale and Carleton.

The Waterburys have also been involved in the good work of the National Gay and Lesbian Task Force, It's Time Minnesota, Plymouth Congregational Church, Interfaith Coming Out Celebration, Minnesota GLBT Education Fund, and the Human Rights Campaign. Additionally, in part due to their great efforts, my State of Minnesota enacted an inclusive civil rights law that is a model for other States to follow. Together they have been visible and effective advocates on behalf of the gay and lesbian community in our State.

If I might, let me include an excerpt from Ruth and David's biography that speaks to their commitment not only to the campaign for human rights, but to each other as well. "Ruth and David Waterbury have been advancing the civil rights of gays and lesbians since shortly after their daughter came out to them. Margery gave them literature to read and expressed hope that they would eventually be glad she was a lesbian. Ten years later, they have now fulfilled her hope and feel privileged to have taken the journey."

For many parents, it is sometimes difficult to accept differences in their children that they did not foresee or wish for. For many others, it is not easy to accept people who are different from themselves—whether it be because of their gender, race, religion or sexual orientation. But the Waterburys chose a path of acknowledging their daughter's orientation, embracing it, and working to help other parents confronted by the same issues. Because of people like them, there is much hope, and even reason for joy. Because of the actions of those like the Waterburys, willing to fight to ensure that the most basic guarantee of our Constitution—equal protection under the law—is secure, there are role models for others to follow, from which others might take the torch and lead. I wanted to publicly salute them today here in the Senate, and thank them for their tireless efforts on behalf of their daughter, and on behalf of gay and lesbian people in my State and throughout the Nation.•

TRIBUTE TO LORI MOONEY, RETIRING CLERK OF ATLANTIC COUNTY, NEW JERSEY

• Mr. BRADLEY. Mr. President, I rise today to pay tribute to the public career of a very special woman. The Honorable Lori Mooney will this month retire from public service having completed 19 years of faithful and distinguished service as the first publicly elected clerk of Atlantic County.

Having been elected in 1977 as the first woman to serve in the position of county clerk, Lori Mooney made one promise at that time to the people of the county—to bring the operations of the office of the clerk into the 20th Century. To that end, she can take great pride in her achievements. She has managed, with the help of a highly professional, service-oriented staff, to raise the professional standards of the office from hand-written entries to the complete computerization of all records. She has consistently worked to meet the growing and changing needs of her county by recognizing the importance of easy, accessible service to the general public. From being the first to provide a satellite office in Atlantic City to her forward-looking efforts today in establishing a World Wide Web site and a "County Connection" at the Hamilton Mall, Lori has instinctively understood the dynamic of citizen contact and public outreach. She has truly incorporated and made real her own motto, "Always At Your Service."

Mr. President, as important as her work as county clerk has been, so too has Lori distinguished herself as a professional businesswoman having been the first woman appointed to the National Small Business Council for New Jersey by President Lyndon Johnson in 1966. And finally, her love and her energy on behalf of Democratic candidates both local and national make her one of the very few Democrats in the State to have been a delegate to the party's national convention six times.

Mr. President, I offer my warmest and most sincere congratulations to one of New Jersey's most beloved public servants whose public career should stand as an inspiration to all who respect honesty, unquestioned integrity and sound judgement in public office.•

THE JAPAN-AMERICA STUDENT CONFERENCE

• Mr. LUGAR. Mr. President, today I would like to salute the efforts of a distinguished student organization that has been at the forefront of enhanced United States-Japanese cultural dialogue and understanding since 1934. I

refer to the Japan-America Student Conference [JASC], which was founded 63 years ago by a group of conscientious Japanese and American students concerned about the cultural misunderstanding plaguing their countries' relations. The JASC continues to play a significant role in facilitating exchanges between American and Japanese university students.

Over the years, the annual JASC student exchanges have produced a remarkable collection of American and Japanese leaders in business, government, journalism, and academia, leaders whose familiarity with their counterparts' culture has been instrumental to their professional success. This year, as we celebrate the 63rd anniversary of student exchanges under the auspices of the Japan-America Student Conference, I commend its leadership and all its participants for their dedication to the cause of cultural enlightenment and enrichment in United States-Japanese relations.

As a completely student-designed and student-implemented program, JASC organizes an annual conference to promote its mission of "Pursuing World Peace through Education, Cooperation, and Personal Commitment." Conference locations alternate between Japan and America and typically involve 30 to 40 university students from each country who come together for a full month to live, travel, work, debate, study, and socialize in the host country. Intensive round-table discussions on topics of fundamental importance to Japanese-American relations complement field studies in which delegates meet with government officials, educators, business executives, journalists, and other prominent citizens of the host country. Homestays with local families allow visiting students insight into the customs of the host country, while Japanese-American sharing of rooms in dormitories ensures intimate cross-cultural links.

Following its tradition of consistently hosting outstanding Japanese and American students, this year's conference will focus on "Exploring Our Roles in the Emerging Asia-Pacific Community." Students will explore issues in culture, trade, philosophy, science, diplomacy, history, and politics in an attempt to understand the fundamental changes forming Japanese-American relations on the verge of the 21st century. Because 1996's Conference took place in the United States, the Japanese cities of Tokyo and Kyoto will host next year's JASC from July 20 to August 19.

In accordance with JASC's standard practice, this year's participants were chosen by the organization's American and Japanese student executive committees consisting of students from each country elected by their peers. Although the respective Japanese and American Executive Committees receive guidance and financial assistance from the Boards of Directors of JASC in Washington and the International Education Center in Tokyo, students in the two committees independently plan and manage the conferences.

Mr. President, JASC represents an effective and efficient means to address the intellectual deficit in Japan-United States relations. Although roughly 43,000 Japanese students are currently enrolled in American universities, less than 2,000 Americans are studying at institutions of higher learning in Japan. This gap must be reduced because we have as much to learn from the Japanese as they do from us. Therefore, I want to commend the Japan-America Student Conference for long dedication to improving ties between Japan and the United States.●

RETIREMENT OF LINDA COLLINS HERTZ

● Mr. NUNN. Mr. President, it is my privilege today to recognize the retirement of Linda Collins Hertz, a Federal prosecutor from Florida and a native of Georgia.

A graduate of Shorter College in Rome, GA, Ms. Hertz received her law degree from the University of Miami cum laude in 1973. After 6 years as an assistant attorney general for the State of Florida, she joined the U.S. attorney's office in the Southern District of Florida. In her 15-year tenure as the chief of the appellate division in that U.S. Attorney's Office, Ms. Hertz has overseen the filing of in excess of 3,000 briefs in the Eleventh Circuit Court of Appeals. I have been told by her former colleagues that the judges of that court frequently comment that the briefs filed under Ms. Hertz' supervision can be counted upon to reflect the highest standards of appellate advocacy, and bear the mark of her commitment to candor, forthrightness and vigorous, but always fair, argument. Ms. Hertz' efforts to ensure that the positions of the United States are argued in a manner consistent with the highest ethical standards serve as a testament to her own high standards. Her coworkers further advise me that Ms. Hertz has consistently provided support to other assistant U.S. attorneys in south Florida and elsewhere, and her counsel is regularly sought on matters of great import and complexity. Ms. Hertz has been recognized by her colleagues and the Department of Justice for her extraordinary work through numerous awards like the Justice Department's John Marshall Award for the Handling of Appeals, and the U.S. Attorney's Vince Antle Award.

In sum, Mr. President, based on the record and based on the testimony of those who know her best I believe Linda Collins Hertz of Rome, GA, and Miami, FL, deserves our gratitude for her dedication and service on behalf of the citizens of Florida and our Nation.●

BIOMEDICAL RESEARCH AT THE NATIONAL INSTITUTES OF HEALTH

Mr. HATFIELD. Mr. President, in the waning days of any Congress, the full range of emotions are not far from the surface in each one of us. We feel the thrill of success as we see our legislative initiatives become law and the disappointment of knowing that some of our priorities must await a new year. As I leave the Senate after thirty years of service, I leave next year's challenges to others.

Among the bills that did not become law this year is S. 1897, a bill to revitalize the National Institutes of Health. This bill is the fine work of my friend and colleague Senator NANCY KASSEBAUM. Once the Senate passed the bill last Thursday, Senator KASSEBAUM worked tirelessly to try to achieve an agreement with the House to pass the bill. Unfortunately, an accommodation could not be reached and as a result, many fine legislative provisions that would dramatically improve the work of the NIH, fall to the wayside this year. This is all the more frustrating given the fact that the House hasn't held one hearing on NIH this year and essentially stopped the bill because they hadn't had a chance to give input.

Mr. President, I have a passion for medical research. It provides the sole hope for an improved quality of life for so many who suffer. Congress has recognized the importance of biomedical research by providing a 6.5-percent increase for the National Institutes of Health this year. We provided a 5.7-percent increase last year—all told an increase of 12.2 percent over a 2 year period. I can think of few domestic discretionary programs which have received this kind of attention in this Congress and none with greater merit. In terms of return on our Federal investment, there is no program which brings greater return in terms of improving quality of life in this country.

I have four pieces of my own legislation attached to S. 1897, all of which I believe will be enacted over time. While not accomplished on my watch, I am hopeful that others in the Senate will take on these initiatives and insure their passage. Senate bill 184 codifies the Office for Rare Disease Research at the NIH. This office has been created in the appropriations process to coordinate the research on over 5,000 rare diseases—diseases that affect only a small portion of the population and frequently have no research project or registry. I have been attempting for 2 years to have the office codified in law and while the Senate has passed this bill twice, it has not become law.

The NIH bill also includes S. 684, the Morris K. Udall Parkinson's Research Assistance and Education Act of 1995. Mr. President, this bill has over 62 cosponsors in the Senate and over 100 in the House. It establishes Parkinson's

Disease research centers across this country and signals the NIH that Congress is not satisfied with the $30 million. that NIH currently spends on this disease—my bill calls for an $80 million investment to cure this disease. I would like to compliment that Parkinson's community, and particularly Joan Samuelson of the Parkinson's Action Network, for the work they did to propel this bill forward. The Parkinson's community has my deepest respect for their advocacy.

The bill also includes S. 1251, a bill that Senator HARKIN and I have long championed to establish a National Fund for Health Research. The version included in Senator KASSEBAUM's bill established the shell of the fund, and left the financing mechanism to a future Congress. My preference is a tobacco tax and a Federal income tax kickoff, but a range of options exist. The important point is that a trust fund recognizes the fact that the appropriations process will never yield adequate resources to fund the promise of scientific research which exists today. We need to do more and the American public, in opinion poll after opinion poll, has indicated they support us doing so.

Finally, the NIH bill includes a new initiative of mine, the Clinical Research Enhancement Act, S. 1534. This bill will increase funding for clinical research, improve training for persons planning clinical research careers, and modify the focus of the NIH to make it more receptive to clinical research proposals.

There is no question that NIH needs more resources to fund all research. However, as we seek to find these funds, we must also look within NIH to ensure that the environment is supportive for clinical research applications. A recent report from the Institute of Medicine presents some alarming trends: the number of young investigators applying for grants dropped by 54 percent between 1985 and 1993, the number of federally funded grants awarded to persons under the age of 36 has decreased 70 percent in this period, and at the same time, young investigators are racking up average debt loads of $63,000. If not rectified, these trends will result in a stunning lack of human infrastructure to deliver a knowledge base that has applicability to or utility for the benefit of patients. It is not an understatement to assert that clinical research is in a state of crisis. Such a crisis may lead to a serious deficiency of clinical expertise, a paucity of effective clinical interventions, an increase in human suffering, and ultimately, an increase in the cost of medical care.

All of these initiatives deserve our support. I am pleased that the Senate has endorsed them and I hope that the new Congress will begin where we ended this year and include these provisions as a starting point on the new version of the NIH revitalization bill.

Before I conclude Mr. President, I ask to have printed in the RECORD a report by Washington Fax of a hearing that I chaired with Senator COHEN on September 26, 1996. This was a significant hearing and I hope my colleagues will take the opportunity to review its content.

The report follows:

EXTRAORDINARY HEARING GRIPS SENATORS, WITNESSES, AND OBSERVERS

No one noticed when, but at some point ego and arrogance got up and left the Senate hearing room.

It may have been when the witnesses began to talk:

Gen. Norman Schwartzkopf, relating a sad commentary on the American male acting like an ostrich when it comes to prostrate cancer and other maladies;

Joan Samuelson, a 46-year-old lawyer diagnosed with Parkinson's disease nine years ago, relating how almost immediately things dear to her—playing the piano, running, backpacking—were taken from her, and then essential functions began to be stripped away;

Rod Carew, a Baseball Hall of Famer introducing us to his daughter, Michelle, via video tape—recalling her smile in the final days of her 18-year life.

And then there was Travis Roy of Yarmouth, ME, a 21-year-old quadriplegic who recalled his life's dream lasting 20 seconds on the hockey ice, and now he must wants to hug his mother and his girlfriend.

Then, at first haltingly, almost embarrassingly, the room began to fill with emotion—honest straight-from-the-heart emotion, rising from the experience of one human being listening to another and hearing.

The scene was a special joint hearing Thursday by the Senate Committees on Appropriations and Aging called to gather testimony on the benefits of biomedical research and the human cost of injury and disease.

As the first panel of witnesses spoke, the hubbub and noise of self-importance and pressing tasks, always a part of a congressional hearing, slowly stopped. The audience breathed ever so lightly; the door from the room stood unused.

Distances began to disappear. None remained between the dias, where Sens. Connie Mack, R-FL; Robert Bennett, R—UT; Conrad Burns, R-MT; William Cohen, R-ME; Mark Hatfield, R-OR; David Pryor, D-AR; John Glenn, D-OH; and Herb Kohl, D-WI, were seated, and the witness table.

The trappings of a hearing were dropped. It was like sitting around a supper table, where friends who know each other warts and all open themselves, trusting their companions to share thoughts, to understand, to help, to reach out and touch where it hurts.

Carew, Samuelson and Roy with great dignity opened their souls, because they want to help stop the pain—not only theirs—but the pain of others too. Hatfield and Cohen, the good hosts, allowed the mood to reign.

At one point, Mack, at Hatfield's gentle nudge, began to speak, but knowing he couldn't trust his voice, sat quietly waiting. There was no embarrassment for him, only great feelings of empathy. The wave of emotion passed, and he talked of the death from cancer of the brother he loved so much. There was a path of empathy from Mack to Carew.

Pryor spoke up. "Talking about one's personal hurts is hard," he said frankly. But he went on to relate how his son, a lawyer, thought he had injured an Achilles tendon playing racket ball. When the surgeon got inside my son's leg, they discovered a rare form of malignant tumor on the tendon, said Pryor. If it had been only a few years earlier, my son would have lost his whole leg, and a short time before that, he would have been doomed, he said.

When Hatfield called upon Bennett, the Utah Senator didn't respond. He obviously wanted to speak, but his grief was so cutting that it took a bit to pass. He directed his remarks to a young researcher who was on one of the witness panels. She had described in her testimony watching the president of Brigham Young University, Rex Lee, loose his battle with cancer. Bennett revealed that Lee was his best friend.

There was a lull in the conversation, and someone recalled the discussion earlier, when Samuelson described how her day goes. "From the moment I am awake, I wonder, 'how will my body react today?'" she said. "Initially it is always stiff and sluggish and unpredictable until it adjusts to medication. For the first hour or two, I cope with a sudden sharp tremor in one or both hands, or one leg suddenly freezing up or contorting in a way that prevents walking. Crawling around the house is sometimes the only way to keep getting ready as I wait for the drugs to begin to work."

Then Mack, with an edge to his voice, questioned aloud, "When are we going to do something about this? To provide what is needed?"

Hatfield warned that funding for biomedical research is not going to continue to increase and may not even hold stable, because in 1999, 2000 and through 2002 there isn't the money to carry out deficit reductions. "We are trying to balance the budget by taking money from only 18% of the budget," he emphasized. "And that isn't enough to do the job."

This was the last hearing that will be chaired jointly by Cohen and Hatfield. It was probably the most honest hearing on the Hill in a lot of years. Senators came face to face with why research is important. The witnesses now know these Senators as kindred souls who hurt as they do, a new reason to fight on through the pain and the grief.

Egos and arrogance left the room and honesty, caring and empathy remained. No heros, just folks trying to figure out how to help each other.

DELAWARE COMPANY HONORED AS FAMILY-FRIENDLY

• Mr. BIDEN. Mr. President, in this time of two worker households, working parents are increasingly faced with the difficult task of balancing work and family.

Every day in this country, families must find a way to meet the challenges that await them at home after a long day on the job. Some days it seems impossible to maintain a career while trying to figure out a way to get the shopping done, put dinner on the table and pick up the kids at soccer practice.

That is why today, Mr. President, I am proud to stand here to announce that Delaware companies are taking the lead and making it easier for working parents to balance their careers and families.

One particular company, MBNA America, which is based in Wilmington, DE, was recently honored as one of

the top 10 family-friendly companies by Working Mother magazine.

This is the second straight year that MBNA has been named as one of the top ten companies for working mothers and the fifth straight year that it has been named in the top 100.

Also, in the September 16 issue of Business Week, MBNA was named as one of the top 10 businesses in terms of their work and family strategies. This is the first time that Business Week has rated companies for their family friendly practices, and it shows that businesses are most successful if they take their work and family strategies seriously.

Speaking about MBNA, Business Week stated that "the bank won the highest grades from employees, who cited strong programs and job flexibility."

MBNA is to be commended for instituting policies and programs that are sensitive to the realities of two income families.

For example, MBNA offers three on-site day care centers that serve MBNA employees. I have had the opportunity to visit one of the two centers that are in Delaware, and I cannot stress enough what a benefit it is for workers to be able to take advantage of these day care centers. In Delaware, these centers give the parents of around 400 children the peace of mind that their child is in good hands.

Also last year, 109 men and 264 women took advantage of childbirth leave of absences that averaged 13 weeks. This is a wonderful opportunity for parents to be there for those precious first weeks of their child's life.

Another important benefit that is offered by the company is adoption assistance of up to $5,000. This allows employees to provide a stable home and family to a child who needs that love and stability so badly. Just another way that companies can help build strong families.

Employees can take advantage of $849,000 in company-sponsored college scholarships that allow those who wish to better themselves the opportunity to do so. After all, education is the greatest investment this country can make.

Working Mother magazine also applauded MBNA for having flexible work hours by utilizing job-sharing strategies and compressed work weeks.

And, the study showed that women account for a high percentage of executive positions at MBNA. Women make up 39 percent of vice presidents at MBNA and 16 percent of all senior executives are women.

Besides MBNA, two other Delaware companies were honored recently as family friendly companies. DuPont and DuPont-Merck Pharmaceutical were named as two of the top one hundred companies by Working Mother magazine for their leadership in creating job strategies that are sensitive toward families. DuPont was also named in Business Week's top10n list, and other companies with facilities in Delaware, such as Hewlett-Packard and Nations Bank, have been praised for their family oriented policies.

Mr. President, these work strategies that take into account everyday family life do not just benefit the employees, but also the employer. There is little doubt that recruitment, retention, morale, and therefore productivity all increase when companies implement family-friendly policies.

I am proud that MBNA and other Delaware companies have emerged as leaders in creating family work strategies, and I hope that this trend continues throughout Delaware and throughout the country. •

INTERNET CENSORSHIP AND CHINA

• Mr. FEINGOLD. Mr. President, almost 1 year to the day after the Senate approved the Communications Decency Act [CDA], the Federal District Court in Philadelphia concluded that congressional approval of the CDA was "unquestionably a decision that placed the CDA in serious conflict with our most cherished protection—the right to choose the material to which we would have access."

Mr. President, this fall the Supreme Court will consider an appeal of that Federal District Court decision, issued in June 1996, which found the CDA to be unconstitutionally vague and a violation of free speech. The action by the Supreme Court will, without doubt, be one which determines whether the Congress will continue to encroach upon one of our most fundamental rights.

The Communications Decency Act was badly flawed in a number of ways—and I have spoken of those flaws often and in great detail on the floor of this Senate—but its most serious flaw was that it criminalized speech transmitted via the Internet which the Supreme Court has ruled is protected by the first amendment—so-called indecent speech. While its proponents claimed to be most concerned about sexually explicit and obscene materials on the Net—the transmission of which is already a violation of criminal law—the CDA swept more broadly, effectively prohibiting speech which is perfectly legal if it appears in a newspaper, magazine, or book.

Mr. President, when I and other Senators pointed out the great danger of the act's overly broad prohibitions of on-line speech, we were told that we were overreacting. We were told that this minor erosion on speech rights will not lead to greater restrictions on the rights of Americans.

But, Mr. President, what danger could be greater than a Congress willing to subjugate speech rights to the political needs of the day? While indecency may have been the target of Congressional disapproval in 1995, when the Communications Decency Act was first considered, the target of our current political climate appeared to be violence in media. The Senate Commerce Committee has considered and reported legislation that puts the Federal Government in the business of determining what violent television programming is acceptable and what is not. In the name of protecting children, this Congress has edged closer and closer to Federal content regulation of speech in mass media. It is an unfortunate but true fact, that the propensity is high for Congress to jeopardize speech rights for the sake of political expediency.

That the United States Congress has taken the same path of countries which do not hold free speech as one of their most cherished rights—such as China and Singapore—should be of great concern to the American people.

For example, earlier this year, China passed a law allowing use of the Internet, but prohibited so-called harmful information on the Internet. According to media reports, as of September 10, Chinese officials had blocked access of China's 120,000 Internet users to more than 100 different sites on the World Wide Web. China considers "harmful information" to include sexual material, political material, and other types of news information that might somehow be harmful to China's people. China has blocked access to Web sites operated by Amnesty International and Human Rights Watch as well as to foreign media sites such as the Washington Post, Cable News Network, and the Wall Street Journal.

China also requires Internet providers to use government phone lines which allow information to be routed to government choke points where access can be blocked. And Internet users are required to register with the government. Media reports indicate, however, that the censors are already missing some sites such as the Swedish-Tibet Network and that many computer users have found ways to circumvent the ban.

Why are China's actions so significant? The Chinese Government has shown us three things. First, they have shown how fear of a new form of electronic communications leads to excessive regulation and censorship. While censorship is acceptable in China, it is repugnant and unacceptable to most citizens of the United States.

Second, they have shown us that once certain types of speech are prohibited by a government, the ban must be enforced. The regulations imposed by China to enforce their ban—the required use of government phone lines and the registration of users with the Government—has led to even greater erosion of civil liberties of the Chinese people. And third, they have shown us

that speech and access prohibitions are ineffective when broadly applied to this new form of electronic communication. China's ban on certain types of speech is being circumvented. Their misguided efforts to protect the public from foreign sources of information and other sites are not likely to be effective.

Surely, the actions of the 104th Congress in approving the CDA are substantially different from the Chinese Government's actions. Nevertheless, Mr. President, there are some striking similarities.

China reacted to the freedom of the Internet by applying the same type of controls they have used for centuries to control information—a ban on speech and prohibition on access. Similarly, Congress reacted to the presence of objectionable and offensive materials on the Internet by imposing the same types of speech restrictions that have been used in broadcasting. Both governments reacted in fear to a new and poorly understood technology by imposing overly restrictive controls that do not take into account the unique nature of the Internet. The difference is that China has a centuries-old tradition of restricting speech while Americans hold their first amendment rights among their most cherished freedoms. Governments with such vastly different values should not be following the same path on speech restrictions.

Senator LEAHY and I urged this body to take the time to study how we might more effectively protect children on the Internet without jeopardizing free speech rights. There are less restrictive and more effective means of protecting children on the Internet than the unconstitutional Communications Decency Act. Instead, like China, congressional fear of the unknown led this body down the perilous path of censorship.

Some in this body might find China's methods of enforcing the ban completely inapplicable to the Communications Decency Act. Surely, the United States would never require adults to register to use the Internet. However, the Department of Justice hasn't yet determined quite how the CDA would be effectively enforced. They have suggested credit card verification, which may not yet be viable. They have also suggested adult identification cards and tagging systems. Some involved in the debate of the CDA last year suggested that users be required to get an information superhighway drivers' license. That sounds remarkably like the registration requirements employed by the Chinese.

Mr. President, the fact is that the only way to effectively enforce the CDA is to dramatically restrict the constitutional rights of adult Americans. And that is simply unacceptable.

Congressional passage of the Communications Decency Act was a misguided attempt to reach an honorable goal—protecting children from those who seek to harm them on the Internet. While we should continue our efforts to protect children, we must seek more effective and constitutional means to achieve that goal.

The 104th Congress failed to honor its obligation to uphold the Constitution when it passed the Communications Decency Act. After the Federal District Court ruling, the Congress should have repealed the CDA—a law we knew to be unconstitutional.

I hope that the 105th Congress will repeal this unconstitutional statute soon after it convenes next year. Maybe then we can get down to the business of protecting children.●

MONTGOMERY COLLEGE 50TH ANNIVERSARY

● Mr. SARBANES. Mr. President, I rise today to acknowledge the many accomplishments of an exceptional institution of higher education in my own State of Maryland.

This year Montgomery College celebrates its 50th anniversary of providing quality higher and continuing education to the men and women of Montgomery County and the entire State of Maryland.

Since it began educating the men and women of Maryland 50 years ago, Montgomery College has experienced remarkable growth. From its modest beginnings with 186 students in borrowed classrooms at a local high school, Montgomery College's enrollment has increased to over 22,000 students who study at three campuses across the county in Germantown, Rockville, and Takoma Park. Over the years, half a million students have benefited from a Montgomery College education, preparing themselves for enrollment in a 4 year college and for direct entry into an increasingly high-technology workplace.

The rapid pace of technological development and the increasing complexity of our economy has created a new set of challenges for our Nation's institutions of higher education. Montgomery College has proven to be a national leader in responding to these challenges, developing a new state-of-the-art high technology and science center to be dedicated on October 10, 1996. This innovative project—a joint effort of State and local government—encompasses advanced technologies to further the educational opportunities for Maryland students and improve the economic competitiveness of our State.

Mr. President, it is my view that offering students the opportunity for a true education and helping them to develop their potential for success in our sophisticated and complex society are among the most important challenges facing our Nation. Montgomery College has risen to meet these challenges and is to be commended for its ambitious views of the future as well as its open-door admission policy, which makes that future accessible to all the citizens of Montgomery County and of Maryland.

Fifty years ago, Montgomery College was viewed as a "great experiment in higher education." It is clear from the accomplishments of the past half century that this experiment has been eminently successful in providing lifelong learning and enhanced opportunities for thousands of Marylanders.●

ORDERS FOR TUESDAY, OCTOBER 1, 1996

Mr. MCCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m., on Tuesday, October 1, 1996; further, that immediately following the prayer, the journal of proceedings be deemed approved to date, the time for the two leaders be reserved, and there then be a period for the transaction of morning business not to extend beyond the hour of 12:30 with Senators permitted to speak for not more than 5 minutes each.

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

Mr. MCCAIN. I further ask unanimous consent that at the hour of 12:30 p.m., the Senate stand in recess until 2:15, in order for the weekly party caucuses to meet. Mr. President, from previous information, that would be this side. I am told by the distinguished Democratic leader there will be no Democratic lunch tomorrow. But we will stand in recess until 2:15 in order for the Republican Party caucus to meet.

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

PROGRAM

Mr. MCCAIN. Mr. President, tomorrow there will be a period for morning business to accommodate a number of requests from Members. At 12:30 p.m. the Senate will recess for the party conference, as I mentioned, the Republican caucus to meet. The Senate could be asked to turn to any legislative item cleared for action. Therefore, votes could occur, and the 3 hours under the previous order may be utilized at any time during the day.

The PRESIDING OFFICER. Does the Senator wish the morning hour to be expired?

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 104–35

Mr. MCCAIN. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be

removed from the Inter-American Convention on Serving Criminal Sentences Abroad, (Treaty Document No. 104–35), transmitted to the Senate by the President on September 30, 1996; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

It is my understanding this has been cleared with the other side.

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

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Inter-American Convention on Serving Criminal Sentences Abroad, drawn up by the Committee on Juridical and Political Affairs within the Permanent Council of the Organization of American States (OAS) and composed of representatives of the Member States. The Convention was adopted and opened for signature at the twenty-third regular session of the General Assembly meeting in Managua, Nicaragua, on June 9, 1993, and signed on behalf of the United States at the OAS Headquarters in Washington on January 10, 1995. The provisions of the Convention are explained in the report of the Department of State that accompanies this message.

Although the United States is already a party to the multilateral Council of Europe Convention on the Transfer of Sentenced Persons, which entered into force for the United States, following Senate advice and consent to ratification, on July 1, 1985, only two other OAS Member States have become parties to that Convention. Ratification of the Inter-American Convention on Serving Criminal Sentences Abroad would help fill a void by providing a mechanism for the reciprocal transfer of persons incarcerated in prisons in OAS Member States, to permit those individuals to serve their sentences in their home countries. A multilateral prisoner transfer convention for the Americas would also reduce, if not eliminate, the need for the United States to negotiate additional bilateral prisoner transfer treaties with countries in the hemisphere.

I recommend that the Senate promptly give its advice and consent to the ratification of this Convention, subject to an understanding and a reservation that are described in the accompanying State Department report.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 30, 1996.*

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Without objection, the morning hour will be deemed expired.

MEASURE READ THE FIRST TIME—S. 2161

Mr. McCAIN. Mr. President, I understand that S. 2161, introduced today by Senator SIMON, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 2161) reauthorizing programs of the Federal Aviation Administration, and for other purposes.

Mr. McCAIN. I now ask for the second reading, and I object to my own request on behalf of Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. Objection is heard.

Mr. McCAIN. Mr. President, I know the hour is late. I certainly respect Senator SIMON's views on this issue, and I know that Senator SIMON feels very strongly. I also know that Senator SIMON is committed to the entirety of the bill. However, on both sides of the aisle, there are objections to S. 2161 introduced by Senator SIMON.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCAIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate now stand in adjournment under the previous order.

There being no objection, the Senate, at 11:06 p.m., adjourned until Tuesday, October 1, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 30, 1996:

THE JUDICIARY

PATRICIA A. BRODERICK, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF 15 YEARS, HARRIET ROSEN TAYLOR, TERM EXPIRED.

DEPARTMENT OF COMMERCE

WILLIAM W. GINSBERG, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE CHARLES F. MEISSNER.

DEPARTMENT OF TRANSPORTATION

TRIRUVARUR R. LAKSHMANAN, OF NEW HAMPSHIRE, TO BE DIRECTOR OF THE BUREAU OF TRANSPORTATION STATISTICS, DEPARTMENT OF TRANSPORTATION, FOR A TERM OF 4 YEARS. (REAPPOINTMENT)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATHAN LEVENTHAL, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2002, VICE WILLIAM BAILEY, TERM EXPIRED.

NATIONAL SCIENCE FOUNDATION

JANE LUBCHENCO, OF OREGON, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2000, VICE W. GLENN CAMPBELL, TERM EXPIRED.

DEPARTMENT OF JUSTICE

ADAN MUNOZ, JR., OF TEXAS, TO BE U.S. MARSHAL FOR THE SOUTHERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS VICE BASIL S. BAKER.