# SENATE—*Thursday, January 30, 1997*

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

PRAYER

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

Holy God, show us Your high intent and keep us from ever being easily content. This is Your Nation; we are here to serve You. Just as Daniel Webster said that the greatest conviction of his life was that he was accountable to You, we press on with intentionality in the duties and deliberations of this day. We want to know what You desire in everything we do and say. Make us aware that You are the unseen guest at every meeting, the silent observer of all our actions, and the careful listener at every conversation. Heighten our awareness not only of Your presence but also of Your power. Give us courage to attempt what only You could help us achieve. Renew our enthusiasm, reinvigorate our vision, revitalize our patriotism, replenish our strength. In the name of our Lord and Saviour. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator MCCAIN, is recognized.

SCHEDULE

Mr. MCCAIN. Mr. President, on behalf of the majority leader, I would like to announce today's schedule. In a moment, the Senate will proceed to executive session to begin 30 minutes of debate on the nomination of William Daley, to be Secretary of Commerce.

At the expiration of that debate time, the Senate will vote on the confirmation of that nomination. Therefore, all Senators should expect a rollcall vote this morning at approximately 10 a.m. Senator LOTT has announced that this vote will be the last rollcall vote of the week. However, the Senate may be asked to consider additional executive or legislative matters that can be cleared.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. KYL). Under the previous order, leadership time is reserved.

## EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of William M. Daley, to be Secretary of Commerce.

## NOMINATION OF WILLIAM M. DALEY, OF ILLINOIS, TO BE SECRETARY OF COMMERCE

The assistant legislative clerk read the nomination of William M. Daley, of Illinois, to be Secretary of Commerce.

The PRESIDING OFFICER. There will be 30 minutes for debate on this nomination to be equally divided between the chairman and ranking minority member of the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, soon the Senate will vote on the nomination of William Daley to be Secretary of the Department of Commerce. Yesterday, the Commerce Committee reported favorably Mr. Daley's nomination by a vote of 19 to 1. I hope the full Senate will also vote overwhelmingly for Mr. Daley.

The confirmation of nominees by the Senate is a duty prescribed by the Constitution. The advise-and-consent obligation given to the Senate in the Constitution is an extremely important task. It should not and must not be taken lightly. At the same time, I believe that it is the President's prerogative to appoint whomever he chooses to administration positions and that such nominees should only be opposed and defeated if there is clear and compelling evidence that such nominee is unfit or unable to serve the Nation. Such decision should be made only after exhaustive questioning of the nominee and much soul searching.

Mr. William Daley has been asked by the President to serve this Nation as Secretary of the Department of Commerce. Three major lines of questioning were asked by the committee:

What are Mr. Daley's qualifications to serve as Secretary? What are Mr. Daley's plans for the Department? And what are Mr. Daley's policies that would implement those plans?

Numerous questions regarding the Commerce Department have been asked of the nominee. He has either fully answered the questions or has committed to providing the committee an answer in a timely fashion.

Mr. President, I am particularly pleased to announce that the Department will cut 100 political appointees from its ranks. The Department has a staggering 256 political appointment positions available. Mr. Daley pledged to reduce that number by 100. He should be strongly commended for this action.

Additionally, at his confirmation hearing, Mr. Daley announced that all foreign trade missions would be halted until the Department, in consultation with the Congress, develops a set of criteria designed to ensure such missions are not politicized. We have all read the press reports alleging that political quid pro quos were a part of such trade missions. Promoting U.S. products abroad and opening foreign markets to U.S. business, not electoral politics, should be the only purpose of such missions.

Again, I am very pleased that Mr. Daley has agreed to work with the committee to ensure that the occurrences of the past do not happen again. I am very pleased that Mr. Daley has agreed to refrain from preferential politics. Discretionary money appropriated to the Department of Commerce should be allocated based on a set of standards and fair criteria that do not give special treatment to any specific locality or region.

Mr. Daley's commitment in this area is commendable. Mr. Daley has also pledged to act expeditiously on any requests for information for files if asked for by any congressional committee.

Mr. President, I think it is appropriate for me to say that we all know that there are serious allegations concerning individuals who were part of the Department of Commerce. Mr. Daley is aware of those allegations. He is fully aware and appreciative of the obligation that he has to refurbish the image of that Department because of the activities of some. I am very confident that he is committed to doing so and will be able to do so. He is an experienced, talented individual who I believe is very capable of carrying out that daunting task.

Last, Mr. Daley promised to recuse himself from any issue that would present a conflict of interest and to work to restore the integrity of the Commerce Department. Such a task will certainly not be easy, but I believe it can and must be done.

For the record, Mr. President, some press reports have raised questions regarding Mr. Daley's past business and political activities. Such reports infer that Mr. Daley or his family may have benefited either personally or politically in certain circumstances. Those press reports have been made part of the permanent committee record. All such allegations were raised with the



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nominee and found to either lack credibility, be proven false, or were fully explained to the satisfaction of the committee.

Let me reiterate that point. Based on the evidence presented by all concerned to the committee, the nominee has engaged in no activity that would cause this Member to vote against him. In fact, the nominee has taken great steps to rebut all allegations and explain the facts surrounding them. After such explanations were forthcoming by the nominee, the committee moved expeditiously to approve this nomination.

In closing, the Commerce Committee has looked into Mr. Daley's qualifications and his fitness to serve, and we believe he is a fine individual who will make an outstanding Commerce Secretary. Mr. Daley has a tough road ahead of him. But I am confident he is up to the task. He has already begun to demonstrate the leadership necessary to move the Department into the next century.

I look forward—and I know I speak for all Members on my side of the aisle—to working with the new Secretary and wish him and his family the very best during their time here in Washington. Mr. President, I strongly urge the Senate to confirm this nomination.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I am delighted to serve with my distinguished white-haired chairman. My wife says when I appear on TV I look like a Q-Tip.

Mr. President, next week the President of the United States will be delivering his State of the Union Message. The Union is in somewhat disrepair, intense disrepair, I might say, because for 50 years after World War II, with the Marshall plan, we sacrificed our economy. And it has worked. Capitalism has overcome communism. They are going the way of freedom and individual rights the world around now. But it has been at quite a cost to our economic strength.

We have lost over 2 million jobs just in the past 10 years. Our manufacturing sector has gone from 26 percent of our work force down to 13 percent. Now is the time to rebuild. In order to do that, we need a very strong Secretary. I am pleased that President Clinton has chosen an unusually strong Secretary in the person of Bill Daley of Chicago.

The fact of the matter is, for many years now he has been a business leader, a business attorney, a banker, an outstanding civic leader, in many respects, and more particularly we know him here in Washington as a special counsel to President Clinton on extending the North American Free-Trade Agreement from Canada down to Mexico. Necessarily, there was quite a difference on this side of the aisle with respect to that agreement, but be that as it may, Bill Daley handled that with thoroughness and with tact and with persistence. And it passed with strong bipartisan support.

He knows his subject of trade. He understands the business needs. He is a very strong individual. He came to the assignment immediately going over to brief himself on the Department and, as the distinguished chairman has already pointed out, has announced, in unique form for a nominee, that he was going to downsize some of the duplications there in the Department itself and make sure that the trips were made for industry and not for politics.

More than anything else, he is really intent on reestablishing the morale of the Department with the loss of Ron Brown who did an outstanding job as the Secretary of Commerce. And I say that advisedly because I have been at least through a dozen or so in the last 30 years and worked with them in that 30-year period, not only with respect to the authorization of the Department, but the appropriations there.

Ron Brown did an outstanding job. Yes, there were some solicitations. Thank heavens it was not solicitations by Ron Brown like most Secretaries of Commerce. We had one Republican Secretary of Commerce go to jail for his solicitations. If we have to get into solicitations, I am going to be glad to make the record.

But the spirit here is one of bipartisanship in the support for Bill Daley. I was particularly impressed that not only the distinguished Democratic Senators, Senator MOSELEY-BRAUN of Illinois, and our distinguished colleague, Senator DURBIN of Illinois, were there to present him in enthusiastic fashion, but he was presented to the committee by none other than the chairman of the House Judiciary Committee, the most respected HENRY HYDE of Illinois, and the campaign manager for Robert Dole's Presidency, the former Secretary of Defense, Donald Rumsfeld.

So we have the respect and confidence of the leadership in Chicago and Illinois that really knows him best. And it is with that record here that he comes. I am particularly enthusiastic that President Clinton has made this appointment. I want to yield now to our distinguished colleague from Illinois.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Senator from South Carolina for yielding.

It is ironic that this is my first speech on the floor of the U.S. Senate and that I am speaking on behalf of a gentleman whom I have known for 25 years and one I am proud to support. I speak on my behalf and on the behalf of the senior Senator from Illinois, Senator CAROL MOSELEY-BRAUN, in support of this nomination of Bill Daley to be our new Secretary of Commerce.

Bill Daley, of course, is well known in the city of Chicago and across this Nation. The Daley name carries with it certain connotations of political leadership, mainly positive, maybe some negative on a national basis. But those of us who know what the Daley legacy has been in the State of Illinois feel that it is overwhelmingly positive because of the contribution that has been made to our State, to the city of Chicago, and to this Nation by the Daley family over the last few decades. It has been significant, significant in this respect: The Daley family has been willing to step forward into public service to face the slings and arrows that public figures face, and to lead.

And they have led, led our great city of Chicago forward, not only under Mayor Richard J. Daley but now Richard M. Daley, and through the other members of the Daley family.

William Daley—Bill Daley as we know him—has often been behind the scenes, not on the center of the stage. Of course, when his father was mayor, he was a young man. Now that his brother is mayor, and he is in a capacity to play a larger role, many times he has stepped to the side. He led in his own fashion, in his own way, and developed a reputation in Chicago, and I think across this country, for leadership, not only the obvious, leading in the city, in community endeavors, charitable undertakings, making certain there was some vision from the business community about the future of Chicago, but on the national scene as well.

It is interesting that when President Clinton faced one of his toughest challenges in his first term, in passing NAFTA, a controversial issue even within the Democratic party, that he would turn to Bill Daley of Chicago and say, "Come to Washington. Use your skills and leadership to help me pass this important trade agreement."

When the dust had settled and NAFTA had passed, even the critics of NAFTA gave credit to Bill Daley and said, "Here is a man who could be trusted." His door was open. His word was good. As I said at the Commerce Committee, he showed the skills of a playmaker like Michael Jordan, whose name may be known to even the Senator from South Carolina. We are proud of the fact that Bill Daley has served this country well. We think this designation of Bill Daley as the Secretary of Commerce creates another opportunity for him to serve his Nation well.

It is no surprise that the Department of Commerce has been under the spotlight in the last several months, and some questions have been raised, and I think deservedly so.

I want to salute my colleague from Arizona, Senator MCCAIN, for noting

that there is need for reform in the Department of Commerce. I say to Senator MCCAIN, we could not choose a better person than Bill Daley to bring about real reform, because he is a professional.

I have to also note the Senator's comments about investigations into questions about his background have shown that they were fine, that he comes to this job with the level of honesty and integrity that we expect of Cabinet people and people in public service. He will be tested to put together a team to bring about real reform in the Department of Commerce. Bill Daley is going to meet that challenge. I think he is going to rise to that occasion.

I might speak to one other point before yielding back. During the course of this hearing and investigation, questions have arisen about the future of the Department of Commerce. Some have even questioned whether it should exist. I, for one, believe it plays a critically important role. Now that the cold war is behind us, we are engaged in a new war of equal proportion—a war over jobs, a war over opportunities, a war to find, I guess, for the next generation of Americans, the same opportunities other generations have enjoyed.

We cannot step back and hope that our reputation as a Yankee trader will be all that is needed for us to win in that war. We need to be on the front, in that battle, making certain that American workers and businesses are treated fairly when it comes to world commerce. That is the job of the Department of Commerce, one of the more important responsibilities that it faces. I hope the Department of Commerce is valued for that responsibility. It certainly is, in my estimation. I know Bill Daley feels the same.

His background in business, in banking, in the practice of law, and in public policy, make him uniquely qualified to come to this job in the Department of Commerce and to serve his Nation well. I am happy to stand today in support of this nomination. I hope that this body will join me in giving a solid vote of support to the designation of Bill Daley as our new Secretary of Commerce.

I thank the Senator from South Carolina for yielding me the time.

Mr. HOLLINGS. Mr. President, Michael Jordan makes his money in Chicago, but he spends it in South Carolina. We welcome him down there regularly. I think he is a property owner by now in Hilton Head. I will check it out, because that would be one of the few votes I could get on Hilton Head.

Mr. President, the appointment of William Daley to head the Department of Commerce comes at a critical juncture in our history. We have emerged triumphant from our long struggle against the forces of tyranny and totalitarianism. Our victory in the cold war was secured through the commitment and sacrifice of the American people, who willingly subordinated their economic interests to sustain the alliance against Soviet expansionism. It was access to the rich American market that enabled our allies to rise from the ashes and rebuild their economies. For four decades the American market absorbed the world's exports while our exporters confronted closed markets abroad. Our generosity has taken a tremendous toll on the American economy. For the past 20 years wages for the American worker have remained stagnant. The average American now earns 20 percent less today than he or she earned 20 years ago. The toll has been most devastating in the manufacturing sector. Manufacturing now accounts for a mere 13 percent of our GNP, half that of Germany or Japan. The most terrible price that we paid was the loss of 2 million manufacturing jobs, which were the backbone of the American economy.

Having triumphed abroad it is now time to rebuild at home. Restoring the promise of America and rebuilding our economy will require the same commitment and sacrifice that won the cold war. The Commerce Department should be at the forefront of this effort. There are some, who in the name of budget discipline, call for the Department's elimination. In an era in which economic and national security are synonymous, eliminating the Commerce Department would be tantamount to unilateral disarmament. The budget will not be balanced by political gimmicks and symbolic gestures. Abolishing the Commerce Department will not make a dent in balancing the budget; what it will do is put us at a competitive disadvantage in the global economy.

In today's new world economy American firms and American workers compete against foreign companies whose governments are allies of business, not adversaries. Where once we stood at the apex of the world economy, now no industry in America is immune from this intense foreign competition.

In market after market, industry after industry, U.S. companies compete against foreign companies that are the beneficiaries of strategic alliances with powerful ministries of trade and industry. Those who believe that government has no role in supporting industry and American workers seek to rewrite history and ignore the realities of the new international competition. In the new global economy, the line between public sector and private sector is at times indistinct.

Our competitors nurture industrial development through rigged capital markets, generous subsidies, infant industry protection, and favorable export incentives. The invisible hand of the free market did not develop Korea's world class semiconductor industry. Instead it was the iron fist of decrees laid down by Korea's Ministry of Trade, which kept out foreign competition unless they licensed technology to Korean companies. The iron fist was complemented by the largesse of Korea's Finance Ministry which provided low interest loans to foster the development of its industries.

The invisible hand of the market did not create Airbus, nor does it guide the development of the faster growing economies in the Pacific rim, which are following the Japanese model of development. The irony is that the market alone was not responsible for the development of our own industrial base. From Alexander Hamilton's "Report on Manufactures," to the revolution in information technology initiated through research conducted by the Department of Defense, our economic strength has been fortified by a symbiotic relationship between government and the private sector.

The strong Commerce Department is an essential prerequisite for competing in the global economy. The Commerce Department, through its technology administration, plays a crucial role in developing the critical technologies of the future. Although the National Institute for Standards and Technology [NIST] accounts for only 1 percent of the U.S. research and development budget—it is the principal program dedicated to fostering critical technologies that have a commercial application. U.S. companies face great pressure to deliver short run returns for the fund managers who dominate America's capital markets. As the Wall Street Journal noted, "the biggest U.S. companies have cut back sharply on research into 'basic science' to pursue short term goals * * *." This alarming trend did not go unnoticed by the Council on Competitiveness, which noted, "Long-term investments rates as a percentage of GDP are falling just when Asian and European competitors are ramping up their R&D programs." This is why it is crucial that we maintain our Advanced Technology Program. It enables industry and government to join forces in carrying out broad-based, long-term, peer-reviewed projects that could have large payoffs down the road. Eliminating the Government's role in technological development will consign our economy to second-rate status. Furthermore, it would allow Asians and Europeans to dominate the emerging technologies which will create the jobs of the future.

Not only does the Commerce Department play a critical role in fostering technology, it plays an equally important role in protecting U.S. industries from the predatory trade practices that have crippled many of our domestic industries. Vigorous enforcement of our antidumping laws is crucial to maintaining our standard of living. Far too

often our competitors have hidden behind a citadel of protection in their home markets while simultaneously flooding our economy with illegally dumped products. A Commerce Department that aggressively enforces our trade laws will enable U.S. companies to sustain their investment in strategic technologies and keep jobs at home.

Strengthening the Commerce Department will require a strong Secretary. Bill Daley fits that description. He has been both a civic leader and a business leader. Those of us who opposed NAFTA know him as a worthy adversary, a man who gets things done. More important, Bill Daley is a man who understands what a privilege and an honor it is to be a public servant. While it may be fashionable in some quarters to denigrate public servants, this nominee knows how effective government can change people's lives for the better.

I urge my colleagues to vote to confirm this excellent appointment.

Mr. President, let me emphasize once again the point made by both our distinguished chairman and distinguished colleague, Senator DURBIN. The Commerce Department has got to be in this front line now of rebuilding our economic strength—a very, very important division within the Department, foreign commercial services, the International Trade Administration. The consensus, I should emphasize to my friends, that while we are spending some $600 million, in a couple of years that budget that is getting ready for the next millennium that everyone is talking about, that budget will jump to $1.5 billion. I can see some saying, "Heavens above, this is a runaway Department." But these endeavors cost, and we want to make sure that they do a credible job, as they have been doing, in my opinion.

We have the very strong divisions in there with respect to the Economic Development Administration that has worked extremely well over the years now, and the Department has a group of the best professionals with respect to this global competition. When the special trade representative, when the State Department and others come and try to learn the facts, it is our Department of Commerce that furnishes the weaponry, so to speak, the statistics, the findings, and everything else as to exactly where we are and how well we are doing to give them credibility in their negotiations.

So, to have the brilliance of Bill Daley of Chicago come to head up the Department, the conscientious nature that he has already displayed with respect to taking over these duties is heartening to this particular Senator, and I am delighted to be with our distinguished chairman in endorsing his nomination.

Ms. MOSELEY-BRAUN. Mr. President, I am very pleased to be able to speak on behalf of the nomination of William M. Daley to be the Secretary of Commerce. At the outset, I want to congratulate the President for selecting Bill Daley. I do not believe he could have made a better choice to lead the Department of Commerce into the new century.

The Department of Commerce has a long and distinguished history, but it is a department that sometimes seems to lack focus. Its mission includes things as diverse forecasting the weather, handling patents and trademarks, conducting the census, travel and tourism, and international trade. What brings all of these diverse subjects together however, is one overriding mission: assisting Americans in enhancing the competitiveness of the United States in the world economy. The Department of Commerce does not control the competitiveness of our economy, but its work opens up competitive opportunities for the private sector, and helps the private sector obtain the information it needs to realize its competitive potential.

The Department's mission goes beyond the dry names of its subagencies. It is part of the foundation of our economy. It helps open doors abroad for U.S. exporters. It helps us know where we stand, and where we might be going. It gives us the kind of data that helps both American business and American workers achieve a brighter, more prosperous future. It is an advocate for economic growth, and helps build the kind of broader, stronger trade links on which our future economic success in no small part depends.

Bill Daley has the background, the talent, the integrity, the energy, and the determination to ensure that the Commerce Department reaches its full potential as an asset for U.S. economic growth. He is the ideal person to build on the great work done by Mickey Kantor and the late Ron Brown.

His past accomplishments demonstrate what he will be able to achieve as Secretary. He is a real leader, both in Illinois and nationally. He has a strong record in the private sector, and an equally strong record in public and civic affairs. His résumé is a distinguished one. It includes serving as:

President and chief operating officer of the Amalgamated Bank of Chicago;

Special counsel to the President for the North American Free-Trade Agreement in the fall of 1993, helping President Clinton achieve passage of that major trade agreement;

A senior partner at one of Chicago's most prestigious law firms, Mayer, Brown & Platt; and

Cochair of Chicago 96, the nonpartisan, not for profit host committee that so successfully oversaw the city and community planning for the 1996 Democratic Convention in Chicago.

Bill Daley was born and raised in Illinois, and he was also educated in Illinois. His undergraduate degree is from Loyola University in Chicago, and he holds a L.L.B. from the John Marshall Law School in Chicago.

If I may be permitted a moment of regional chauvinism, I will say that Bill Daley has all the Midwestern virtues. He has an uncommon amount of common sense, he is an extremely hard worker, he is unpretentious, his life exemplifies the kind of family values we talk about so much here in Washington; and he is always focused on getting the job done. He is a skilled lawyer, an extraordinary negotiator, and an executive of rare ability. He has the kind of good judgment that makes him a person who is always being called on for help, and he has never failed to provide that help. And while most of his career has been in the private sector, he has unstintingly given of his time to public and charitable causes. Like his brothers, and his father before him, he has a real commitment to public and community service. Like all of the other members of his family, he is deeply patriotic, and dedicated to doing everything he can to help all of our people and every part of our country build an ever-brighter, ever-more prosperous future.

Bill Daley has the talent to manage a large, diverse organization like the Department of Commerce, and he is the kind of person that will make the Department run more efficiently and effectively. He understands business, and he knows how important it is for the United States to compete successfully in the world economy.

This is a time of enormous change, not just in our economy, but also in the Commerce Department. I cannot think of a person better suited to making the necessary reforms so that the Commerce Department can successfully meet the challenges of the new century that will soon be upon us. I know he will make a first-rate Secretary of Commerce, and I strongly recommend that the Senate act expeditiously and favorably on his nomination.

Mr. DOMENICI. Mr. President, I rise to express my support for the confirmation of Mr. William Daley as the next Secretary of Commerce.

I am glad to learn that Mr. Daley recognizes the need to streamline the Commerce Department and that he is willing to perform a top to bottom review of its agencies and programs to ensure productivity and efficiency. In addition, I am hopeful that Mr. Daley will address the numerous concerns which have hampered this Department's effectiveness in the recent past and that he will strive to restore the Department's good reputation.

As we enter into the 21st century, America must make new strides to ensure its strong standing in the ever growing global economy. We must continue to further our ties with foreign

nations and businesses so that our economy will continue to be the engine that drives the world's prosperity.

Although our economy continues to grow yearly, I believe we should be concerned with how slow that rate of growth has been. Small businesses are the backbone of our national economy and I am hopeful that Mr. Daley will focus more attention on promoting the role of small business in foreign trade. With only 12 percent of our small businesses participating in foreign markets, I believe we have to focus more attention and resources to promoting their interests worldwide.

As it did with NAFTA and GATT, we need the Commerce Department to continue to open new markets. Additionally, the Department of Commerce must ensure that our trade partners comply with the promises set forth in all such agreements. As competition around the world becomes stronger by the day, the Department of Commerce, under its new Secretary, must strive to guarantee a level playing field to ensure the economic future of the American people.

With nearly one-fourth of our gross domestic product resulting from exports and with more than 11 million workers owing their jobs to their employer's overseas business, Mr. Daley's work as Secretary of Commerce will be felt nationwide.

Mr. President, I yield the floor.

Mr. BROWNBACK. Mr. President, it is with regret that I announce that today I will be voting in opposition to the nomination of William M. Daley to the position of the Secretary of the U.S. Department of Commerce. While Mr. Daley's character and his distinguished career in public service demonstrate that he has the qualifications for the position to which he has been nominated, these qualifications are necessary, but in and of themselves, not sufficient to merit my vote.

My chief concerns regarding Mr. Daley's suitability for the position reflect: First, questions over his willingness and commitment to deal with corporate welfare in the agency; and second, his commitment to engage in the fundamental overhaul of a Department whose management practices and many missions have been called into question by numerous reports by the Department's inspector general and by the General Accounting Office.

Corporate welfare has no place in this Government today. Mr. Daley generally agrees we should not have corporate welfare in the Federal Government. However, he disagrees with the appropriate definition of corporate welfare. I asked repeatedly for a specific commitment from him to study whether corporate welfare was being doled out by the agency. He was unwilling to do so, although he made a similar commitment with respect to the issue of foreign trips conducted by the agency.

My second concern is the redundancies at the Department of Commerce. According to a recent GAO study the Department of Commerce functions are duplicated 71 times throughout the Federal Government. I discussed this problem with Mr. Daley during the hearing. He stated that he would consider the issue, but made no specific commitments as to when he would address the issue nor in what quantity. He would not commit to report to Congress within 6 months or 1 year on these known redundancies nor would he commit to cutting back the number of redundancies by a minimum of even 10 percent. He did make such specific commitments regarding political appointees, which he agreed to reduce by 100.

Because Mr. Daley has refused to make specific commitments to address these problems I do not support his nomination. The next Secretary of Commerce should be someone who recognizes the seriousness of these problems, and who is committed to addressing them.

Mr. DASCHLE. Mr. President, I rise today to congratulate William Daley on his nomination to be Commerce Secretary of the United States. I believe his lifelong experience in the private sector and strong record of public service will provide him with an extraordinary range of skills that make him unquestionably qualified for this position.

First, he will bring a business perspective to the Department of Commerce. From the insurance industry, to a law practice that specialized in international trade, to serving as president of the Amalgamated Bank, William Daley understands the needs of the private sector.

As a special counsel to President Clinton during the debate over the North American Free-Trade Agreement, he also demonstrated an ability to work with lawmakers on both sides of the aisle and was instrumental in securing its congressional approval.

And finally, William Daley believes in the responsibility of the Department of Commerce to enhance the competitiveness of American companies in the global marketplace. He knows that our economy cannot grow without the strength of new ideas and a lasting commitment to the risk takers who develop them.

As a successful businessman and a dedicated public servant, I am confident that William Daley will build on the legacy of Mickey Kantor and the late Ron Brown, whose tireless efforts created countless new opportunities for American companies around the world.

As Commerce Secretary, William Daley will be an energetic promoter of our business interests, a skilled negotiator in opening new markets, and a visionary who believes in the value of researching and developing new products and ideas.

I look forward to working with him in advancing the interests of the American business community in the years ahead.

Mr. KERRY. Mr. President, I am pleased to support Bill Daley to be the next Secretary of Commerce. In his appearance before the Senate Commerce Committee, Mr. Daley impressed me and other members with his energy, his enthusiasm, and his firm grasp of the challenges faced by American companies attempting to compete in the world marketplace. In my view, Mr. Daley demonstrated that he possesses the qualities, energy, and instincts necessary to be a successful Secretary, and to lead the Commerce Department into the 21st century.

We all regret that, in recent years, the Department of Commerce has become the target of a great deal of criticism. Though some of this criticism may be warranted, in my view most of the criticism is not aimed at creating a better or more efficient Department but instead is an attempt to sacrifice valuable and important Federal activities for short-term ideological and partisan gain. Nevertheless, I applaud Mr. Daley for his forthright acknowledgment of the criticism and his commitment to address several of the concerns raised. His pledge to review the process by which persons are selected to accompany Department officials on trade missions abroad and his promise to reduce the number of political appointees at the Department are a strong testament of the sincerity of Mr. Daley's commitment.

From conversations with leaders of the Massachusetts business community, and especially with those who run the small businesses that are the engines of economic growth in my State, there is broad support for the functions performed by the Commerce Department, and there is near unanimous agreement that the U.S. Government must aggressively assist U.S. companies attempting to develop and utilize new technologies, and enter new markets overseas. Small and emerging companies in Massachusetts have benefited greatly from several Commerce programs. The Advanced Technology Program and the Manufacturing Extension Service are both excellent examples of government making smart investments in emerging companies. The evidence for both of these programs demonstrates that each dollar invested generates many more in return. The same is true for the programs administered by the Trade Promotion Coordinating Committee and the U.S. Foreign Commercial Service. The one-stop-shop trade center in Boston has helped hundreds of New England companies develop and expand markets overseas. Finally, the Economic Development Administration remains one of the few resources that cities can call on for capital planning or capital project assistance that will boost their economies

and create jobs. For this reason, the EDA must be maintained and strengthened.

A vital but not-as-well-known arm of the Commerce Department is the National Oceanic and Atmospheric Administration. I consider NOAA to be one of the Federal Government's premier scientific research and resource management agencies, with responsibility for the stewardship of our marine resources, management of our coastal zone, and operation of the National Weather Service, environmental satellite systems and a fleet of oceanographic research vessels. These oceanic and atmospheric programs are a critical component in the integrated effort to study and maintain the Earth's ecosystem.

Other Commerce agencies, such as the National Institute of Standards, the Census Bureau, and the Patent and Trademark Office perform missions that are necessary to our economic and governmental functioning. In my view, the Commerce Department is in a unique position with responsibility for trade, technology, and environmental matters, and this presents Mr. Daley with a special opportunity: to successfully integrate U.S. policy on economic and environmental issues. After following his impressive career and after carefully listening to his recent testimony before the Senate Commerce Committee, I have every confidence that Mr. Daley understands and appreciates this unique mission. I support his confirmation, and I urge my colleagues to do the same.

Mrs. BOXER. Mr. President, I am delighted that the Senate will give its approval today to the nomination of William M. Daley to be Secretary of Commerce.

Mr. Daley is with the Chicago, IL, law firm of Mayer, Brown & Platt. He previously served as the president and chief operating officer of Amalgamated Bank of Chicago, and as special counsel to the President for the North American Free-Trade Agreement. I believe Mr. Daley's background and experiences will be of tremendous benefit to America's businesses as they navigate their way through the global economic marketplace in which they now operate.

It is particularly important to my home State of California that the Department of Commerce have a strong and effective leader. Bill Daley will be such a leader.

California is the Nation's leading exporter. Last year, California accounted for 16 percent—$90 billion—of the Nation's exports, an increase of almost $14 billion over the 1994 levels. This tremendous amount of exports supported approximately 1 million Californian jobs. From the period 1987 to 1995, California realized the largest dollar growth in merchandise exports—$59.1 billion—of any State. As a member of the International Finance Subcommittee, I look forward to working with Secretary Daley on the issue of exports and on a host of other issues of importance to the businesses in my home State of California.

In addition to the issues facing California businesses, there are also many significant and important issues, and challenges, facing our Nation as a whole as we move forward into the 21st century and begin to shift from an industrial base to a technological base in an information society. Bill Daley has the know-how, vision, and leadership necessary to effectively guide us across the bridge into the 21st century.

Mr. MCCAIN. Mr. President, it is the wish of the majority leader that we not vote until 10 o'clock. I do not have a lot of additional comments to make about the nominee that I did not already make.

I appreciate the overall broad bipartisan support that has been given this nominee. I think he appreciates it as well. Because of the importance of working on these issues on a nonpartisan basis, the issue that Senator DURBIN and Senator HOLLINGS raise about trade are accurate.

I point out to my colleagues, yes, the Department of Commerce and Secretary of Commerce has a very important role to play in the conduct of trade and fostering relations and helping U.S. businesses compete abroad, and I also appreciate the Senator from Illinois' comments about the new kind of war we are in. But the problem has been, I point out, that there has been a lack of coordination and coherence to the conduct of these policies, where on the one hand we send our human rights secretary from the State Department, who bashes this particular country, in this one case, China, on human rights violations; and then our Secretary of Defense goes over, a very close and warm relationship with their military establishment—who, also, by the way, run many of these companies and corporations in China; and then our Commerce Secretary goes over and has an entirely different environment.

I think the President of the United States understands better, but not completely, the absolute requirement that if we are going to have a coherent foreign policy, which is probably the most important, single, fundamental conduct of foreign and trade policy, then we all have to have a coordinated effort, led by the President of the United States. Yes, human rights plays an important role in our relations with foreign countries; yes, in the furtherance of the United States' national security interests; yes, providing access and an equal playing field for U.S. companies and corporations to compete, especially in emerging nation markets, is important, but there cannot be discordant voices and disjointed messages to these people, otherwise they become confused and sometimes enraged, because you cannot tell the rulers of China, "By the way, I have no relationship whatever."

On one occasion they were told by our State Department that the President of Taiwan would not visit the United States of America. Two weeks later it was announced that the President of Taiwan was being given a visa to visit the United States of America.

Now, I could argue both sides of that position, but I cannot argue for that methodology. There is no excuse for that kind of methodology. You either say and make sure that the President of Taiwan visits the United States or you say that he will not—one of the two. But especially when we are talking about the power shift that is going on right now, a transition, with the leader who has taken longer to die than the Ayatollah Khomeini, and emerging, if not aggressive, certainly assertive behavior in the region, trade has an important role. But it has got to be part of an overall foreign policy. That has been and will be my major criticism of this administration's conduct of foreign policy.

I am pleased to say from my conversations with Secretary Daley that he understands that. He understands how important it is to coordinate his efforts with those of the President, the Secretary of State, the National Security Adviser and others so we can shape a far more effective foreign policy, which at the end of the day will help us immeasurably in our efforts in increasing trade than some of the kinds of modus operandi we have seen in the past. I am convinced our nominee has that understanding and that commitment.

I was interested and appreciated my dear friend's, Senator HOLLINGS, comments about Mr. Daley's efforts on behalf of NAFTA. I do believe that Mr. Daley did a very effective and important job in that effort. I know that both my colleagues here on the floor were aware of his effort at that particular point, showing his ability to work with the Congress of the United States on both sides of the aisle.

I yield the floor.

Mr. HOLLINGS. Mr. President, the problem of China is most frustrating. I guess the question is, how best do we extend freedom and individual rights in a country of that kind? It is very difficult for a nation with a 220-year history to tell a culture and nation of 3,000 to 5,000 years of age what to do and how to do it, particularly a country, Mr. President, of 1.2 billion.

If you have ever dealt with China, you understand immediately that human rights begins, first, with hunger. That is the first human right in the People's Republic. They have to feed 1.2 billion. The second human right is that of housing. The third human right is perhaps education. The

fourth human right is ours—one man, one vote. If you start off on the other end of the spectrum, one man, one vote, you have chaos. I say that advisedly.

I wish I had the time as a southern Governor, because I stand with pride—no life was lost, no one was hurt during my 4 years. I integrated, as the distinguished president pro tempore's alma mater, Clemson University, in a peaceful fashion. We have a track record. We know how you have to handle crowds and make sure no one is hurt.

That approach to China with respect to commercialization and capitalization, I think, is going to be better than confrontation. It is good to come and say we will not trade with you unless you do A, B, and C; however, the others are going to trade with them. It is a nonstarter. It just will not work. The Germans, the French, and the Japanese are in there like gangbusters, and we cannot use that particular tool.

The bottom line, you can look at democratic India and its approach and you can look at the People's Republic and you may reason that perhaps the People's Republic approach will extend more housing, more feeding, more education in the next 10 or 20 years than the democratic India. It is going to be interesting to follow.

But mind you me, China is there. They feel very strongly with respect to Taiwan, to Hong Kong and those possessions that have been taken from them, and their stand has been recognized by us in our foreign policy. We have to be more realistic in its treatment. I yield the floor.

The PRESIDING OFFICER. All time of the Senator has expired.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. MCCAIN. I ask for the yeas and nays on the nomination of William Daley as Secretary of Commerce.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. SMITH). The question is, Will the Senate advise and consent to the nomination of William M. Daley, of Illinois, to be Secretary of Commerce? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Missouri [Mr. BOND], the Senator from New York [Mr. D'AMATO], and the Senator from Texas [Mrs. HUTCHISON] are necessarily absent.

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

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 4 Ex.]

YEAS—95

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

NAYS—2

| | |
|---|---|
| Brownback | Inhofe |

NOT VOTING—3

| | | |
|---|---|---|
| Bond | D'Amato | Hutchison |

The nomination was confirmed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The majority leader is recognized.

## MORNING BUSINESS

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

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

## ORDER OF PROCEDURE

Mr. LOTT. Mr. President, for the information of all Senators, there will be no further rollcall votes this week. The Senate is expected to be in session into the afternoon for Senators to introduce legislation and to make statements. We have had indications that there are some Senators who intend to do that.

The Senate may also be asked to clear a few routine Legislative and Executive Calendar items. We do have a few we think we will be able to get cleared and complete those this afternoon.

Following the conclusion of today's session, it is anticipated that the Senate will be in recess tomorrow and a pro forma session on Monday.

It is my understanding the Judiciary Committee will order reported today from their committee the constitutional amendment with respect to a balanced budget. Allowing for the 3-day requirement for minority members to submit their minority views, it is then expected the Judiciary Committee would be able to report the constitutional amendment to the Senate on Monday. If that is the case, and the report could be available by late afternoon on Monday, it would be my intention to turn to the constitutional amendment with respect to a balanced budget on Wednesday, February 5.

I remind my colleagues, we will have the State of the Union Address by the President on Tuesday night, the 4th, and we expect to receive the President's budget submission on Thursday, February 6. So next week will be eventful.

We will continue to work to clear nominations just from getting reports from various committees. It looks to me like there could be a minimum of two or three more Presidential nominations—I think all of them are Cabinet level—that may be available next week. We will try to work those into the schedule as soon as they are available, presumably Wednesday and Thursday, on those nominations and confirmations.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## ROYALTIES FROM CRUDE OIL

Mrs. BOXER. Mr. President, I want to brief the Senate on an issue that is gaining steam in my home State of California, because, if it is resolved, it will result in about $80 million going directly into the school system in California to help the children there.

This issue involves the underestimation by oil companies of royalties that they owe the Federal Government from crude oil that they have pumped. They have underestimated these royalties and have been sent a bill by the Department of the Interior, and they have not yet paid.

At this point the amount owed is $385 million. We expect it will go up to $440 million.

Ten oil companies, the largest one being Shell, have been sent their bills. Shell Oil's bill is over $100 million. Those funds will go to the U.S. Treasury, and then a portion of those funds

will go to the States in which the oil was pumped. California is the place where most of that oil comes from; and California will get between $75 and $80 million from the Federal Government when those funds are collected.

In California we have a law that the royalties all go to the State Schools Fund. I really hate to see years of protracted litigation, Mr. President, on this matter.

The oil companies are not cooperating. Many of them have refused the subpoenas. They are disregarding the subpoenas sent to them. The Justice Department is now involved. I hope that instead of being deadbeat oil companies, they will pay up. If they feel they have a case that the bills are too high, they can fight that out. They can try to settle it. But they should at least cooperate and begin paying some of what is owed.

Mr. President, I can tell you, the $75 to $80 million to California schools would mean that we could hire an additional 1,000 teachers or buy 40,000 computers. The children deserve that.

For Orange County alone the underpayments total more than $5 million; for Los Angeles, $18 million; for San Diego, $5 million; for Fresno, $2.25 million.

So I appeal to these oil companies, do right for our children, pay what you owe. Be good citizens, cooperate in this investigation, make some payments, work with us so that our children can get a better education.

I hope the people of this country will write to the CEO of Shell, will write to the CEO of Oryx, of Marathon, of Mobil and tell those CEO's that we are all in this together and that when an individual family gets a bill, when they do not pay it, they cannot stall, they cannot afford to hire lawyers. If, in fact, the individual says, "Well, I paid it," you know what you would do as a family member; you would say, "Here's my canceled check. I've paid this," or, "Come and look at this. This is a mistake."

That is not what these oil companies are doing. Three of them complied with the subpoenas, but five are fighting them. So I feel, Mr. President, this is an issue that deserves attention.

I am very pleased that Cynthia Quarterman, the Director of the Mineral Management Services, and Bob Armstrong are working on this case. They are going forward to collect these sums. They have written a new rule so that in the future there will not be any confusion about what is owed.

So I look forward to a successful conclusion, and I really do think if the people of this country and citizens of California write to these oil companies, maybe we will see some of these payments.

Thank you very much, Mr. President. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

## VOTING RIGHTS OF MILITARY PERSONNEL

Mr. GRAMM. Madam President, I have risen today to talk about a problem in my State with regard to the voting rights of military personnel. Our dear colleague from Alabama, Senator SESSIONS, is on his way to the floor to join me in this discussion. While I am waiting for him, for at least a moment I want to talk about another subject. I want to say a little bit about the balanced budget amendment to the Constitution.

## BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. GRAMM. Madam President, I understand that our colleagues today on the Democratic side of the aisle are offering in the Judiciary Committee an amendment that says that, if we require the Federal Government to live on a budget, if we fulfill the constitutional requirement that Thomas Jefferson thought necessary when he first saw the document upon returning from France, we ought to set up a system where we count the Social Security trust fund while it is in surplus between now and the year 2002 as part of the accounting system of the Government but that after 2002 we not count it as part of the budget of the Federal Government.

What our colleagues would have us do is to make it easy now to spend money but that when the Social Security system begins to move into the red, to not count that deficit as part of the deficit of the Federal Government. If we are going to balance the Federal budget, if we are going to guarantee the future of Social Security and Medicare and of Government services that our people need and deserve, we are going to have to control spending. We cannot balance the budget by simply exempting the largest program of the Federal Government from the budget. And the idea of saying that in the future, when Social Security is running huge deficits, it will not count as part of the budget, it seems to me, is not only shameless but is typical of an era where our own President in this year's budget is proposing that we take the single fastest growing item in Medicare, home health care, that we take it out of the Medicare trust fund in order to make the books look better. I do not think you have to have much imagination to understand that, if you do not count the deficit of Social Security in the future, not only will we have no incentive to control that deficit and make the system solvent but more and more Government functions will be shifted over into the part that does not count for a balanced budget amendment.

So I think we all know what the game is here. The game is we have a lot of people who promised in the election that they would vote for a constitutional amendment to force Congress and the President to balance the budget and now we are seeing gamesmanship where they say, "Well, I would vote for it but only if the largest spending program of the Federal Government were excluded and only if we could use the benefit from the surplus now, and only if we do not have to make up the deficit later." Have our Democratic colleagues who have offered this proposal no shame?

We have a choice as to whether we are going to change America. If you want to change America, you are for the balanced budget amendment to the Constitution and you are for a balanced budget where every program counts, where every program is important, where the Federal Government is forced to pay its bills.

How many families would like to be required to balance their budget without counting their mortgage payment or without counting the cost of their new car? I believe we make a mockery of the process.

I look forward to the day when we are going to stand up on the floor of the U.S. Senate and we are going to say yes or no. As we look back at the campaign literature of some of the very people who are now undecided and we look at what they said about being for a balanced budget amendment to the Constitution, what we are going to really test is, does our word count for anything? When we tell people we are for something and they vote for us and send us here to do it, will we do it, or will we engage in gimmicks to try to confuse the people and try to cover what is little more than going back on our word?

Madam President, I look forward to having my name down as one who is for the balanced budget amendment to the Constitution.

## VOTING RIGHTS OF MILITARY PERSONNEL

Mr. GRAMM. Madam President, let me now turn to the subject that I came to the floor to speak on. Our colleague from Alabama will be here later. Let me explain, if I may, this problem and where we are in the discussion and why this is a very important issue for all 100 Members of the Senate and for all 260 million Americans.

We have an all-volunteer military force. We ask young men and women,

in putting on the uniform of this country, to serve all over the world far away from home in lonely places. We ask them to defend our freedom and independence and our interests. We sometimes call upon them to give their lives in the service of our country. I am not aware that ever before in the history of America has there been any serious challenge, up until the case I am about to talk about, of the right of our military personnel to vote.

My dad was a sergeant in the Army; a career soldier. Like many people in the military, my dad decided where he wanted to declare as his legal residence. Millions of people wearing the uniform of the country over the history of our country since they serve all over the world tend to pick an area as their legal residence with the objective of coming back there to live when they get out of the service, or at least to have a place-holder as their identity with the very country they serve.

We have a case now before the Federal court in my home State of Texas in Val Verde County, Del Rio, which is the county where Laughlin Air Force Base is located, where we have the Texas Rural Legal Aid, which is predominantly funded by the Federal taxpayer. They, in clear violation of the law based on the provisions of the appropriations bill which we passed on the floor of the Senate last year which prohibited them from engaging in lawsuits related to political activity, have filed a lawsuit challenging the right of military personnel who are registered to vote in Val Verde County but who are not currently residing in the county during their military service to have their votes counted. Interestingly enough, they say, "Oh, you have a right to vote for President. You have a right to vote for Senate or Congress. But you do not have a right to vote in county elections."

This is the first time that I am aware of that this challenge has ever been made. The challenge is based on the Voting Rights Act, interestingly enough, because the argument is made that the roughly 800 military absentee ballots were cast by predominantly white voters and that the makeup of the general electorate was majority Hispanic and therefore there has been a violation of the Voting Rights Act by the fact that these absentee ballots have diluted minority voting strength.

I am not here today to testify what the racial makeup is of the electorate in Val Verde County. I do not know the exact numbers. I do not have any idea what the racial makeup is of the 800 absentee ballots. But the issue is, Do our warriors have a right to vote? Do those who protect our freedom have the basic guarantee of exercising that freedom?

As a result, according to the claimants in this lawsuit, of these 800 absentee ballots, 2 Republicans were elected. Their argument is that if you do not count these 800 absentee ballots from military personnel, 2 Democrats would have been elected.

Let me say, Madam President, I do not know that is the case, and that is not really the issue here. The issue here is the right of people to vote.

Let me, before going further, say that when the Legal Services Corporation was notified that Texas Rural Legal Aid, their grantee in Texas, had violated the law, they asked Texas Rural Legal Aid to give them an explanation by a certain deadline. They then asked Texas Rural Legal Aid to cease and desist. What Texas Rural Legal Aid has done, having done all of the workup for the case, is they have now moved to the position of being expert witnesses. This is clearly violating the intent of Congress. I want to put my colleagues on notice that God did not decree that appropriations bills have to pass, and we are going to address this issue in the upcoming Commerce-State-Justice appropriations bill. And unless we can get satisfaction that the Legal Services Corporation is going to abide by the law, those who are ready to pass that bill without those guarantees better be ready to get 60 votes.

Let me turn to the point I wanted to make today. I discovered yesterday that the Legal Services Corporation through their grantee, Texas Rural Legal Aid, Inc., sent out a questionnaire to 800 American warriors stationed all over the world, and it has this big official heading of "In the United States District Court for the Western District of Texas," and then it has all of this legalese. Then it has a questionnaire that in single space form is 23 pages long encompassing 54 comprehensive questions, many with multiple parts, and someone has to fill it out and they have to get it notarized where they are swearing under oath.

I would like to give you an indication from this questionnaire of the kind of things that are being asked, and I have up here a blowup of one little part of question 21. Imagine, you are in Berlin or you are in Korea. You have a job to do there. You are manning a Patriot battery in Korea. Your family is at home. And you get a document 23 pages long telling you that you have 3 days to fill it out.

Just look at these questions. These are the people who exercised their right to vote, something we encourage people to do. So this warrior is in South Korea defending the frontiers of freedom and they get this questionnaire. And this is just one section of one of the 50-odd questions:

> What is the complete address of the place where your spouse lived on November 5, 1996? If it is located outside the territorial limits of the United States please also indicate the last place your spouse resided which was in the territorial limits of the United States.
>
> Did your spouse usually sleep there at night? Yes. No. If no, what is the address where your spouse sleeps at night?
>
> Approximately how long (expressed in months, days, and years) has your spouse slept at this address?
>
> If your spouse did not then or does not now usually sleep at this address explain the reason(s) your spouse does not do so.

Is there no shame? Is there no shame? The Federal judge who approved this questionnaire ought to be embarrassed—ought to be embarrassed. It is outrageous that taxpayer money was used to send out a questionnaire to our warriors who are out defending freedom all over the world asking them because they dared to vote where their husband or wife sleeps at night. Madam President, this is absolutely outrageous.

We will shortly have a letter signed by the majority of the Members of the Senate urging our Attorney General to enter this case. We are dealing with two local candidates. I do not have any real knowledge of either one of them. I do not know what kind of attorney they have. I do not know how good a job they are doing presenting their case. But it seems to me that this is a fundamental issue: do people who wear the uniform of this country have a right to vote in the location that they can choose as their legal residence?

I obviously believe they do. It turns our whole political system on its head. To suggest that someone who has chosen Val Verde County as their legal residence while they are serving in the Air Force all around the world has less right to vote there because their race may be different from the race that someone claims to make up the population of that region is clearly outrageous, is a national issue of profound importance. I want the Attorney General of the United States of America to enter this case and defend the rights of our warriors to vote. And if they are voting and elected one candidate and defeated another, is that not what votes are about? Do we not each cast our vote believing that it might make a difference?

Madam President, I do not know whether or not it made any difference. I do not know the racial makeup of the 800 people who voted absentee who are in the Air Force, who have claimed Val Verde as their legal residence. I do not know how that changes the makeup of the electorate or racial basis, and I do not care. Our society is too preoccupied with race. The whole reason that this is before a Federal judge is that race is being used as an issue to take what is basically a voting rights issue, which is a State of Texas issue, and elevate it to the Federal Court based on a claim about the ethnic makeup of members of the military who voted absentee.

I believe this is a very serious issue. I believe it is a terrible indictment of the Clinton administration, that they have not intervened in this case. The Secretary of State of the State of Texas, the chief elections official of our State, has said that this lawsuit

clearly in no way represents the election laws of our State. Our Attorney General has said that requiring this kind of questionnaire and documentation turns the whole election system on its head. The people who did not vote absentee who are not in the military received no such questionnaire.

Let me tell you what this questionnaire is about. This questionnaire is about voter intimidation. That is what this questionnaire is about. You imagine, if you are manning a military weapons system in South Korea and you took the time to vote in your elections in the county you claim is your legal residence and you get a 23-page legal document with 54 questions, many of which have numerous subquestions asking you where your wife sleeps at night or where your husband sleeps at night, and if your spouse does not sleep where you do, why not.

What do you think this is going to do to their willingness to vote in the next election? This is as clear a case of voter intimidation as it would be to have a literacy test written in Chinese. The clear objective of this questionnaire is to intimidate voters and not just any voters—people who wear the uniform of this country and who defend the very freedoms that we are now seeing the Federal Government through the Legal Services Corporation seek to deny them.

Madam President, I think this is one of the clearest outrages that I have seen in my period of time in public service. I think it is something that has to be stopped. I want my colleagues to know that since this is occurring in my State, and I speak for Senator HUTCHISON on this issue, we intend to see this fixed. I want to call on our Attorney General, Janet Reno—and let me say I had a very nice talk with her yesterday. She has promised me that she will look at this on an expedited basis. We had previously sent her a letter over a week ago.

My concern here is that we are talking about two locally elected officials who have been barred from taking office. They won the election, nobody doubts that. But they have been barred from taking office while Texas Rural Legal Aid, funded by the Legal Services Corporation, tries to intimidate military personnel who voted.

I don't know whether they can afford counsel. I don't know how good a job they are doing defending the right of our warriors to vote. I want the full weight of the Attorney General brought into this issue. Do our warriors serving in the military have a right to vote in that area that they choose to designate as their legal residence? Let me remind my colleagues, you don't have to own a home to be a legal resident. You don't have to actually reside there if you are in the military. You simply have to make a designation.

I see this as voter intimidation. I see it as a gross abuse of the Voting Rights Act. I cannot imagine that we would maintain a military facility in a county that did not let our military personnel vote. I would not—I don't care where it is—I would not support spending one dime to keep a military facility in a county that denied the right of military personnel to vote.

I think the time has come to make it clear that this old deal of abusing military personnel has to end. From the beginning of the Republic, we have wanted Washington and Uncle Sam to send the soldier boys out to build the fort, to buy our goods, and then they are abused. This is one of the worst cases of abuse that I have ever seen, and I am going to do everything I can, everything within my power, to see that this is fixed.

Our soldiers, sailors, airmen, marines, and Coast Guard personnel have a right to choose a legal residence.

I want to read, in concluding, a quote from Maj. Paul Smith. Maj. Paul Smith is in the Air Force. He grew up in Del Rio. He attended high school there. He went off to college, and then he came back to Laughlin to do pilot training. He declares Val Verde County as his residence.

We have been doing this since the Constitution was written. From the colonial period, we have allowed people wearing the uniform of the country, serving around the continent at first and now all over the world, to designate where they are going to exercise their legal rights.

Maj. Paul Smith grew up in Val Verde County in Del Rio, attended high school there, went to pilot training there, and he says he is a resident of and chooses to vote in Del Rio. I say he has that right.

Here is what he said about this document sent out by Texas Rural Legal Aid and the Legal Services Corporation demanding to know where his wife sleeps at night. He said: "This really infuriates me. I'm serving my country, putting my life on the line, protecting the right to vote. If they throw my vote out, well, that's not good."

It sure is not good, and it is not going to happen. It is not going to happen.

So I want to thank my colleagues for giving me this time. I want to call again on the Attorney General to enter this case. Defend the right of those who wear the uniform of this country to vote, whatever their race is, however they vote. The issue here is not race. The issue is not who won and who lost elections. The issue is, do people in the military, when they are moving all over the country and all over the planet, have a right to designate an area where they want to exercise their right to vote? It seems to me you cannot be more basic than that, and it doesn't matter what the other factors are in this case.

If somebody voted illegally, throw their vote out. But to indict every military personnel who voted absentee because their vote might have changed the racial composition of the election, and to send them an intimidating legal document demanding they answer it in 3 days, asking where their spouse slept, it seems to me is clear, unadulterated voter intimidation, and it is something that needs to be stopped. I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I have listened with growing concern and really anger at the remarks of the Senator from Texas. I agree with him. It is a cause of great concern to me. I served 15 years in the U.S. Department of Justice. I have served in the Army Reserve as a judge advocate. My responsibilities in that capacity were to protect the rights of servicemen and all their responsibilities, enforcing the Soldiers and Sailors Relief Act so that those service people can maintain their rights in their communities and not be abused while they were serving their country on active duty.

To me, this is a very unhealthy action. It outrages me for three particular reasons.

First of all, taxpayers' money was used for it. Legal Services Corporation lawyers actually going into court and seeking to deny soldiers, sailors and airmen the right to vote. It is fundamentally wrong, it is offensive to me, and I am glad the Senator has spoken out aggressively about it.

The Legal Services Corporation has had a history of abusing its charter. Time and time and time again, they are caught and held to account, and they back off and say, "Oh, we're sorry, we made a mistake, it won't happen again." But it has happened again and again and again, in my experience, and I think we ought not to forget that.

I also want to say it is particularly galling to me that the votes they seek to cancel are those of soldiers, sailors, and airmen and airwomen who are serving our country abroad and throughout this Nation. I firmly and strongly believe they ought to be able to vote in the location they choose as their residence and be able to participate in the votes at that time.

Finally, as an individual who served for 15 years in the U.S. Department of Justice, a tenure I treasure greatly, I think it is incumbent upon the Attorney General to take firm and quick action to join the side of those service men and women who are entitled to vote and have their vote counted. I think they ought to intervene in this case on the side of the servicemen and help make sure that justice is done.

I thank Senator GRAMM for his remarks and for calling this to the attention of the country. I think it is an important issue.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, I have two quick orders of business.

## UNANIMOUS-CONSENT AGREEMENT—ADDITIONAL COSPONSOR

Mr. GRAMS. Mr. President, I ask unanimous consent that in its first printing, the following Senator be added as an original cosponsor to the Department of Energy Abolishment Act of 1997, a bill to eliminate the Department of Energy: Mr. HAGEL of Nebraska.

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

Mr. GRAMS. I thank the Chair.

(The remarks of Mr. GRAMS pertaining to the introduction of S. 238 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

Mr. BYRD addressed the Chair.

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

## RELATIONSHIP WITH CHINA

Mr. BYRD. Mr. President, the emerging relationship between the United States and China is one of immense opportunity for both nations, and deserves the steady attention of the highest levels of both governments. Both nations need to make every effort to broaden the area of common ground in our dealings and understandings, and to engage in an open and honest dialogue on those issues, such as weapons proliferation and human rights matters, on which we have serious differences. There is a rising tide of commentary on our bilateral relationship, and it is not particularly easy to arrive at the kind of balanced approach which is both clear-eyed regarding present realities, and at the same time visionary on future prospects. One of the most thoughtful recent attempts to paint the salient highlights of this complicated picture was made last week by the recently retired Senator from the State of Georgia, Sam Nunn.

On the occasion of his selection as the 1997 recipient of the Paul Nitze Award for Distinguished Public Service, Mr. Nunn described the current state of consensus in the United States on U.S.-China policy as "very, very fragile." If that consensus were to break down, and the relationship with China were to turn sour, a historic opportunity of profound importance could be lost. Both sides need to work hard to avoid that possibility.

The consensus within the United States that Senator Nunn describes includes the healthy notion that our support for the modernization of China's legal and banking and judicial, civil service and other institutions will pay long-range dividends for our overall relationship, and for progress in China, but that modernization will not emerge magically. Sustained efforts at cooperation in both public- and private-sector activities must be ongoing.

In his remarks, Senator Nunn rightly flags the importance of the circumstances accompanying the turnover of Hong Kong to China on July 1 of this year. How well China adheres to the commitment that she has made to the people of Hong Kong to preserve Hong Kong's distinct social, political and economic identity for the next 50 years will be vital. Senator Nunn states that China's "credibility is on the line," in that China has given its word, and extended a solemn promise. A very disquieting note has just been raised by the annual report by the State Department on human rights performance around the world according to the New York Times. The report says, "Hong Kong's civil liberties and political institutions were threatened by restrictive measures taken by the Chinese government in anticipation of Hong Kong's reversion to Chinese sovereignty" in July. If China does not honor its obligations to Hong Kong, her relationship with the world, as Senator Nunn points out, will be "dealt a severe blow." Keeping her word will be a key indicator of China's general willingness to adhere to the terms of other international obligations that the United States might support, such as membership in the World Trade Organization. Hong Kong will, in July, become an integral part of China and it will take some dexterity and work on the part of the Chinese government to fulfill its promise to honor Hong Kong's unique institutions. In this, as in many other aspects of our growing relationship, patience, calmness, understanding and open dialogue will be important keys to success. The United States would be mistaken to judge too quickly or to criticize too easily. We should be cognizant that the more our interrelationships develop across the board, the more likely it will be that the warm breezes of open democracy will have its effects on Chinese society.

It will take a special effort on both sides to continue to propel our relationship along constructive channels, and to do so will require sustained effort, frequent interchanges and constant communication.

I commend Senator Nunn for his contribution to this dialogue on our China policy and recommend a reading of his address to my colleagues. I hope that his remarks will receive wide distribution.

I ask unanimous consent, Mr. President, that the remarks of Senator Nunn to which I have just alluded be printed in the RECORD at this point.

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

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

### UNITED STATES-CHINA POLICY—SEEKING A BALANCE

(By Sam Nunn)

It is a great honor for me to accept this award which bears the name of one of our Nation's greatest statesmen—Paul Nitze has dedicated his life to advancing our national interests—as a Governmental official—as a private citizen—in war and in peace. Paul is a public servant without peer—from NSC-68 and the wise men—to the Marshall plan and NATO—Paul has led with vision. From the Committee on present Danger and Nuclear Weapons Strategy—to charting a course in the post cold war era—Paul Nitze has had the courage of his vision and has demonstrated that one man can truly make a difference.

Paul—by your example—you have defined the true meaning of statesmanship. As an admirer—a student—and a friend—it is a great honor for me to accept the Paul Nitze Award.

I am grateful to Bob Murray and CNA's board of trustees for this special honor and for CNA's contributions to our Nation's security.

These are just a few examples of the great return the taxpayers get by investing in CNA. Bob, to you and your team—keep up the good work!

There is only one catch to this wonderful evening with Paul Nitze—the awardee must delivery a lecture on a matter important to our national security—so any hope that you may have that I will say a quick thank you and sit down—is dashed on the rocks of this obligation.

If Paul were presenting a paper this evening, he would cover NATO expansion, peace prospects in the Middle East, the effect of Islamic fundamentalism on U.S. interests, the quest for eliminating nuclear weapons from the globe—as well as the emergence of China—all in clear, succinct and persuasive form. Being a mere mortal, I will confine myself to only the last subject—the emergence of China. I believe that this is an important subject on the eve of the 25th anniversary of President Nixon's historic 1972 visit to China and at a time when many Americans are questioning the policy we have pursued under both Democratic and Republican Presidents since that time.

There are many think tanks in Washington—but CNA is unique—the only one whose scientists regularly deploy in war and in peace with our operational forces.

Those of us in the Congress dealing with national security are keenly aware of your reputation for excellence and objectivity—but most of all—we are aware of your effect on policy.

In the gulf war, one of our missiles misfired and killed our own people—CNA figured out why and prevented it from happening again.

The Defense Department has to become more efficient if we are to have the funding to modernize—CNA identified billions in infrastructure savings which have been adopted by the Navy.

One of our most effective weapons is the Tomahawk Missile—CNA's recommendations have significantly improved its performance.

The growing importance of China in world affairs demands a purposeful, coherent and

consistent American policy. History is littered with the uninformed and ineffective responses of an established power towards a rising power, and vice versa.

Established powers must provide consistent and credible signals about their expectations and set forth reasonable terms on which they are willing to incorporate the rising power into the international system.

We are now watching the rise of China against the backdrop of Asia's rapid industrialization. China is a nuclear power with the world's largest army and a permanent member of the United Nations Security Council. China also is a nation with 1.2 billion people, an economy growing at nearly 10 percent a year over the last decade—and as we too often forget—a distinctive civilization of great antiquity.

China is in the midst of four major transitions:

From a planned economy to a state guided market economy.

From rule by the long march revolutionaries to rule by bureaucrats, technocrats, and military professionals.

From an agricultural society to an industrial society.

From a largely self-sufficient, isolated economy to one that is increasingly dependent upon the international economy.

China's transition is likely to be protracted. Uncertainty is a permanent quality of modern China. Even if China embarks upon a process of democratization, the development will be a lengthy one. History shows it takes a long time to create a legal system—guarantees for private property—a parliamentary system—a free press—and the political culture that can sustain a pluralistic and tolerant civil society.

We must engage China and its current leaders now rather than remain aloof from this vast, complex, and proud civilization until it becomes to our liking.

This can only be done if the leaders and peoples of both our countries are convinced that their national interests will be well served through greater U.S.-China cooperation. Let's consider a few examples:

FIRST: ARMS CONTROL AND NON-PROLIFERATION

Preventing the proflieration of weapons of mass destruction—and their means of delivery—and reducing stockpiles of these weapons are American interests of the highest priority.

As a nuclear power and a permanent member of the Security Council, China can either assist or torpedo efforts to stop the proliferation of weapons of mass destruction—its role is critical—China's attitude toward various arms control measures has certainly improved in the past decade—its recent commitment to cease nuclear testing and to support the comprehensive test ban treaty is an encouraging development. China seems to recognize its interest in reducing the dangers of nuclear proliferation globally and especially in East Asia.

But China also has been indifferent to the destabilizing consequences of its transfer of advanced technology and sale of materials related to strategic weapons in South Asia and the Middle East. Aspects of its military and technology relations with Pakistan and Iran are deeply troubling to the United States.

In our dialogue with the Chinese at high levels we should point out that as a growing importer of oil from the Middle East, China has an increasing stake in the tranquility of the Straits of Hormuz and the Persian Gulf—its pattern of arms sales does not seem to take this into account—we should also emphasize to Beijing that the U.S. Navy protects the waters through which oil tankers bring petroleum to China. China benefits from the stability our naval presence brings to the high seas.

SECOND: THE COLLAPSE OF THE SOVIET UNION

Both the United States and China must respond to the consequences of the collapse of the Soviet Union. With the Russian threat now greatly diminished, the security frameworks erected in the cold war era must take into account new realities. Plans are underway to extend NATO eastward (a move I remain very skeptical about—but that is the subject of another speech), and we are adjusting our treaties with Japan and Korea. These changes must be undertaken in ways that do not raise new and deep security concerns in Russia about its western flank or in China about its eastern flank, lest we inadvertently stimulate the two to begin a strategic relationship that neither prefers and which threatens stability.

Russia's new situation also has offered China opportunities to improve its relations with Moscow. This is a welcome development. Previous Soviet-Chinese rivalry and military confrontation brought tension to the entire region. Improved Sino-Russian relations help promote regional stability. But economic considerations on the Russian side and opportunism on the Chinese side could prompt an undisciplined flood of weapons and military technology to China, provoking an effort by the Asian Nations to balance China's growing strength, resulting in a destabilizing arms race.

In Central Asia, Mongolia, and the Russian Far East, China faces some serious questions:

Will the new Central Asian Nations stimulate separatist impulses among China's Islamic peoples?

Where is the Russian Far East headed, in light of Moscow's ebbing economic and political grasp over the region?

Will the migration of Chinese to Siberia continue and become a new source of tension between Russia and China?

How will the resources of the Russian Far East be developed in the next century?

We should discuss these broad strategic issues with Beijing. How to ease Russia's political and economic transformation; how to create a framework of stability for the states of the former Soviet Empire; and how to continue the current favorable alignment among the major powers of Asia. For the first time in a century, China, Russia, Japan, and the United States have good relations with one another, constant dialogue among China, Russia, Japan, and the United States is required to consolidate this relationship.

THIRD: REGIONAL SECURITY INTERESTS

In addition to its global strategic interests, the United States has enduring regional security concerns.

No region is more important to the United States than the Asia-Pacific Region, where America has fought three costly wars in this century and where rapidly growing economies offer the United States our greatest expanding markets. Needless to say, China also has a keen interest in maintaining stability in this region—our overlapping interests have enabled China and the United States to cooperate in sustaining peace in Korea and ending nearly 40 years of war on the Indochina Peninsula.

Our treaties with Japan and South Korea and the specific arrangements developed under them—the status or forces agreements, the basing arrangements and force structures—took shape in the cold-war era. Much has happened in the subsequent years. Japan and South Korea have emerged as prosperous, full democracies. Through consultations, the United States and China must forge an understanding that adjustments to these treaties are not aimed at China but are intended to ensure that the alliances remain a cornerstone of regional stability.

FOURTH: INTERNATIONAL ECONOMIC INTERESTS

The United States has a major interest in maintaining steady international economic growth, uninterrupted by financial crises or disruptions in the international monetary system. We seek access to the markets of other countries and we believe that the growth of imports into the United States should occur in an orderly fashion. We seek a level playing field—too frequently, foreign countries exploit their open access to American markets while limiting access to their markets or discriminating against American firms.

Sanctions should be employed with great care, but any American Government that ignores the American peoples' strong desire for a fair playing field in world trade will have great difficulty conducting a sensible trade policy or foreign policy.

With one of the world's largest economies, its rapid increase in foreign trade, its substantial foreign currency reserves (nearly $100 billion), and its external indebtedness (over $100 billion), China's economic performance clearly affects American interests. China has created a better institutional and legal environment to welcome foreign direct investment than most other countries in East Asia. It has taken measures to facilitate repatriation of profits. Its sovereign offerings are deemed credit worthy by international rating agencies.

Yet even though roughly 40 percent of China's exports are ultimately consumed in the United States, its Government appears reluctant to address its growing trade deficit with the United States through increased purchases from American vendors. While decrying American linkage of trade and politics, China is practicing its own form of linkage. Too often China has discriminated against American vendors on political grounds, even though China enjoys easier access to the American market than to markets of other developed countries.

Further—China's laws governing commerce remain underdeveloped, and corruption is a growing problem. Many non-tariff barriers still exist that restrict access to the China market.

As Bob Zoellick recently observed, we are likely to be more successful in pursuing our trade grievances if we seek an international coalition to promote and enforce international standards and if we stress China's self-interest in adhering to the rules.

FIFTH: PROBLEMS OF INTERDEPENDENCE

The United States has a major interest in reducing a wide range of problems that transcend national boundaries: Environmental degradation; international terrorism; illegal population migration; narcotics trafficking; the spread of communicable diseases; pressure on world food supplies; and rapid population growth. These problems threaten the survival of vast portions of the world's peoples and introduce global instability.

Chinese-American cooperation cannot assure success in addressing these most fundamental problems that threaten all humankind. But Chinese-American animosity would surely make it more difficult to cope

with these issues. Acting together, the United States and China can accomplish much. in confrontation, both of us will suffer.

SIXTH: DEMOCRACY AND HUMAN RIGHTS

The United States must give expression to the values on which the Nation was founded and that draw Americans together as one people. These beliefs have universal appeal. They are a source of American strength.

Yet the authoritarian leaders of China believe that many political values that Americans espouse do not apply to China. their obstinate resistance to democratization and human rights is driven by complex reasons. I believe that China's leaders jeopardize their nation's economic progress and domestic stability by not moving more rapidly toward the rule of law and expanding the opportunities of their populace to participate meaningfully in their own governance. China cannot expect United States and world acquiescence or silence in response to flagrant abuses of human rights. This is particularly true in terms of China's treatment of the citizens of Hong Kong.

In assessing China's behavior, however, I believe that we must broaden our own definition of human rights. Professor Harry Harding has recently written that:

"While the individual political and civil freedoms enshrined in the American Constitution are indispensable to human rights as we know them, human rights also encompass such social and economic rights as the rights to subsistence, to development, to employment, to education, and the special rights of women and children and the elderly. Political and civil freedoms are not the only things that people value in their political lives. Other political goals, including stability, effective governance,and absence of corruption, are also worthy of pursuit."

As we shape our strategy, we need to keep these words of wisdom in mind. If we do, our justifiable criticisms of abuses are likely to have more credibility and more effect not only in China but also with our friends throughout Asia.

This review of America's foreign policy interests reveals that a thick web of partly convergent and partly divergent interests now binds the United States and China. In recognition of this reality, I believe that a new fragile consensus on China policy is slowly emerging in Washington and among the American people.

This fragile consensus rejects the extremes of rigid hostility or unconditional friendship with China. It seeks cooperation with China while realistically accepting disagreement where our values and interests diverge. If strengthened, this consensus has the potential to embrace several fundamental concepts.

First, Sino-American relations merit high level sustained attention of the United States Government. Management of this relationship cannot be relegated in chaotic fashion to the lower levels of each department in the executive branch, but must be coordinated at the highest levels of Government, including the Congress. The exchange of Presidential visits is a strong step in the right direction.

Second, the United States has an interest in a prosperous, stable and unified mainland that is effectively and humanely governed, not a weak, divided or isolated China which would surely threatened the region's peace and prosperity.

Third, the United States should seek to work constructively with China to facilitate its entry into the international regimes that regulate and order world affairs. China will be more likely to adhere to international norms that it has helped to shape. But China's entry must not be permitted on terms that jeopardize the purpose of those regimes.

Fourth, the United States should continue to adhere to our one China policy based on the Shanghai Communiqué, the normalization agreement, and the 1982 joint communiqué. We do not seek to detach Taiwan from the mainland permanently, but neither can we accept Taiwan's forcible reunification with the Mainland. Taiwan deserves a status in world affairs commensurate with its economic and political attainment. But realistically, Taiwan can best secure a greater international voice and stature through cooperation with Beijing and not through provocation.

Fifth, to attain all these objectives, the United States must retain a robust military presence in the Western Pacific. Until multilateral security arrangements are firmly in place and well rooted in East Asia—there will be no substitute for the Japanese-American and Korean-American security treaties—which are not directed against China.

Sixth, the United States—especially the private sector—should cooperate with China in its efforts to develop institutions necessary for its continued modernization: A legal system and the rule of law; a strengthened judiciary; an effective banking and revenue system; a civil service system; representative assemblies; and effective civilian control over the public security and military forces.

Finally, because of the attention that will be focused on the turnover of Hong Kong to China on July 1 of this year, Hong Kong will provide the prism through which Americans will view China. This 1997 view may affect the American people's perception of China for years to come, and may turn out to be the bellwether for the international community in judging Beijing's intent and approach to the world.

Will China carry out its solemn commitment to Britain and the people of Hong Kong to allow Hong Kong its own distinct social, political and economic identity for the next 50 years? If so, this example will lead to a positive view of China throughout the world, including the people of Taiwan. If not, China's relationship to the world will be dealt a severe blow and its relations with the people of Taiwan will be set back 50 years.

It is far from clear that the leaders of China are prepared to meet this responsibility by allowing Hong Kong to retain the qualities that are key to its success—such as a professional civil service, the rule of law, an independent judiciary, and freedom to receive and disseminate information.

Considering the large stakes, I believe that our own country must strive for balance in our assessment and our actions.

We should remember that Hong Kong was seized by force from a weak China and that the British subsequently ruled it as a British colony—not a democracy. Hong Kong and Macau are the last Western colonies in Asia, and represent the end of an era.

China should be told clearly and firmly that their credibility is on the line and that their behavior toward Hong Kong will have a major effect on their standing in the international community—in short, they must keep their world—our measuring stick of Chinese behavior should be based on their own solemn commitments—not on our dream of a Jeffersonian transformation.

It is essential that we not rush to a final verdict based on the first thing that goes wrong. This will be a long uneven process with many rough spots and mistakes. The transfer of power is a British and Chinese agreement, and the United States should not get drawn into a self-appointed role as the arbiter of the details.

The United States should not become the sole critic when China deviates from its commitment to Hong Kong. This will turn Hong Kong into a U.S.-China confrontation and will not be effective with a Chinese leadership that fears the perception in their own country that they are yielding to American pressure. While we have a huge stake in a prosperous Hong Kong and a China which keeps its commitments—so do our allies in Europe and Asia. We, of course, must lead—but we must lead the international community.

In the final analysis, after July 1, Hong Kong will again be part of China and its long term future will be determined by events in China itself. As the eyes of America and the world focus on the important trees of Hong Kong, we must not lose sight of the forest itself—China.

In our country the emerging consensus of U.S.-China policy is very, very fragile. The Presidential visits, the recent stabilization of Chinese-American relations and the prospects for improvement in the months ahead are particularly vulnerable to disruption by possible Chinese actions.

Many observers caution that for deeper reasons, the new consensus cannot be sustained, citing the historical "love-hate" relationship between these two great countries.

Some analysts claim that two civilizations as different as that of China and the United States simply cannot sustain constructive relations.

Other analysts assert that political and ideological differences preclude a close, cooperative relationship between Washington and Beijing.

Yet others claim that accommodations between the United States and China will necessarily prove to be temporary because of our differences in wealth and power and because the United States is a defender of an international system that we helped to create and that advances our interests.

Let us acknowledge and accept the dangers these observers offer. They remind us of the enormous challenges in fostering cooperative Sino-American relations. They caution us neither to harbor illusion nor to allow expectations to soar. But in the final analysis, what should we do with their warnings? Should our policy become fatalistic, devoid of hope that the United States and China can be partners in the building of a more stable and secure world? Should the United States look upon China as an enemy and therefore seek to weaken or divide it, thereby creating a reality we seek to avoid?

I believe the clear answer is no. To move in this direction would become a self-fulfilling prophecy. Forewarned of the difficulties, the leaders of China and the United States must persist in forging cooperative bonds between our two nations.

One conclusion is clear—in no small measure, the future well-being of the American and Chinese people depends on the ability of our two nations to cooperate. I remain hopeful that enlightened self-interest will prevail, as it has in the 25 years since President Nixon and Chairman Mao shook hands.

Thank you, ladies and gentlemen. Thank you, CNA. And thank you and God bless you. Paul Nitze.

The PRESIDING OFFICER. The Senator from Arkansas.

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

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 237 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

## THE CASE FOR ENERGY CONSERVATION

Mr. SPECTER. Mr. President, I have sought recognition to address an ongoing threat to our Nation's security and prosperity, a threat with dual roots. In the precarious Middle East and right here at home there is reason for concern about our Nation's increased reliance on potentially unstable foreign sources of oil. I believe it is critical during the 105th Congress that we focus on efforts to increase energy conservation, particularly in the context of reauthorization of the Federal highway and transit programs.

We must think back to the days of the gulf war and further back to the oil crises of the 1970's to better understand the entire picture. American consumers too often forget the interdependence of world events, particularly when it comes to our use of imported foreign oil. There are currently legitimate reasons to question whether instability in the Mideast will once again jeopardize our access to that region's oil resources, putting our economy and perhaps our national security at significant risk.

By way of background, it is well known that the oil supplies in the Mideast are immense. An estimated 66 percent of the world's recoverable oil resources are found in the region. These supplies are critical to the United States as well as to our European allies. More than 20 percent of the oil we purchase comes from the Arab countries of the Organization of Petroleum Exporting Countries, commonly known as OPEC. Western Europe depends on the region for 25 percent of its oil consumption. These OPEC countries include alphabetically, Algeria, Iraq, Kuwait, Libya, Qatar, Saudi Arabia, and the United Arab Emirates.

I have been troubled that U.S. imports of foreign oil continue to increase. Currently, the U.S. imports constitute more than 50 percent of the oil which we consume. According to the American Petroleum Institute, this equals more than 9 million barrels per day, with a 6-percent increase in the amount of imported oil since 1995 alone. That is cause for real concern. This is a huge jump from the 6 million barrels imported per day in 1973. Further, if these trends continue, analysts say that in 10 years we will look to these overseas sources for two-thirds of our energy needs.

In part because of the ready availability of less expensive sources of foreign oil, it has not been cost effective for U.S. energy companies to increase domestic production. U.S. domestic production of oil continues to decline, with an estimated 17,000 U.S. oil wells ceasing production annually. U.S. industry claims that regulatory relief and tax measures are necessary to jump start domestic production again, and these are areas which we ought to consider.

This is a field that I have some personal knowledge in, Mr. President, from my roots in Kansas where my father ran a junkyard and where he and my brothers bought oil wells for salvage and then flooded wells. We have a great source of supply from those wells and other production in the United States which we really ought to reexamine in the context of this major international problem.

In an effort to protect ourselves against the disruption of oil supplies after the oil crises we faced in the 1970's, Congress established the Strategic Petroleum Reserve. That reserve was intended to minimize the effects of any disruptions from the import of oil, and by the end of 1989 that reserve held 580 million barrels. The first sale from that reserve occurred after the Iraqi invasion of Kuwait in August 1990, demonstrating that the reserve can serve its intended purpose, because it was used at that time.

The effectiveness of the reserve is measured by the number of days of net petroleum imports the reserve could supply in the event of an interruption in the supply of foreign oil. For example, in 1986 the reserve was said to contain 115 days of imports. By 1995, based on the decreasing U.S. production and a corresponding increase in foreign imports, the reserve was said to hold an amount comparable to 75 days of net imports.

As if it was not sufficient to let the effectiveness of the reserve dwindle, last year in an unprecedented move, the Administration decided to sell approximately 25 million barrels of petroleum from the reserve to generate revenues, an amount equivalent to almost 3 weeks supply of imports from Saudi Arabia. That timing, I suggest, was less than prudent, particularly considering the state of affairs in the Mideast today which should highlight the dangers and disadvantages of reliance on Mideast oil. Saudi Arabia, in particular, poses a unique cause for concern. The sovereign independence of Saudi Arabia is of vital interest to the United States, as President Bush said in 1990 after Iraq invaded Kuwait. If a hostile nation seized Saudi oil wells, the largest reserve in the world, the American economy and the world markets could tumble.

More recent events are again drawing our attention to Saudi Arabia. Last week, Attorney General Reno and FBI Director Louis Freeh publicly acknowledged what has been known for a long time; and that is that the Saudis are not cooperating with the United States investigation into the terrible terrorist attack at Dharhan on June 25 of 1996. We saw the terrorist attack on United States citizens in Riyadh in November of 1995. We saw the Saudi investigation. We saw the Saudi execution of four convicts, people they said were guilty, on May 31, 1996 without giving the FBI an opportunity to question those individuals. Now Director Freeh has been blunt about the lack of Saudi cooperation, and Attorney General Janet Reno said the same thing in public disclosures last week.

It is in the interest of the United States, Mr. President, for our relationship with Saudi Arabia to continue, and we want to have a good relationship with the Saudis. But we have some 5,000 U.S. military personnel there. We have thousands of other U.S. personnel there. I think it is important for the Saudis to understand that continued United States cooperation requires fair treatment for our investigative efforts.

Along a parallel line, it is important for the Saudis to understand that respect for United States personnel there, for their religious freedom, is of enormous importance. It was not too long ago, in the mid 1980's, when United States citizens were arrested in their households by the so-called "religious police" and held in detention.

But this effort to maintain our relationship with the Saudis, while of enormous importance, requires that we focus on a potential problem of what we will do if the oil supplies from Saudi Arabia are in any way threatened.

Mr. President, while our interest in reducing dependence on foreign oil is a difficult task, we can achieve meaningful reductions in energy consumption through prompt reauthorization of the Federal mass transit and highway programs contained in the Intermodal Surface Transportation Efficiency Act of 1991, known as ISTEA, as well as enactment of an Amtrak reform bill and continued public policy initiatives to promote the use of clean burning alternative-fueled vehicles such as natural gas and electric cars.

ISTEA is commonly referred to as the highway bill, but it does much more than pave roads. That legislation expands the mass transit formula and discretionary grant programs, authorizing some $31.5 billion over 6 years for public transportation. Other provisions established funding for bicycle paths and pedestrian walkways. That bill revolutionized Federal spending on transportation infrastructure improvements by establishing the National Highway System, funding the Congestion Mitigation and Air Quality Improvement Program, granting States

and local governments more flexibility in determining transit and highway solutions, and promoting new technologies such as intelligent transportation systems and magnetic levitation systems, which are also important alternatives to help us reduce dependency on foreign oil.

The funding authority for ISTEA will expire on September 30 this year, therefore creating the necessity and an opportunity to focus national attention on the significant link between energy consumption and our transportation infrastructure. A Department of Transportation study of the 50 largest urban areas in the United States suggests that nearly 4 billion gallons of gasoline are wasted each year due to traffic congestion—approximately 94 million barrels of oil. There is much at stake, for the annual economic loss to business in the United States caused by traffic congestion is estimated in itself at $40 billion by the Federal Transit Administration. We will be correcting many problems if we work on mass transit and road improvements to reduce traffic congestion and also our dependence on foreign oil.

Legislation to reauthorize Federal highway programs will provide an opportunity to improve existing roadways, construct more efficient bypasses and highway interchanges and generally reduce congestion in our cities and towns. Further, a key weapon in our effort to reduce our dependence on oil shipments from potentially unstable regions is public transportation and mass transit.

Mass transit has developed to include traditional bus and subway lines, commuter rail, cable cars, monorails, water taxis, and several other modes of shared transportation. Public transportation is a lifeline for millions of Americans and deserves substantial funding for that reason alone. However, it deserves even greater funding when one considers that public transportation saves 1.5 billion gallons of fuel consumption annually in the United States and that each commuter who switches from driving alone to using public transportation saves 200 gallons of gasoline per year, according to government and private studies. Transit thus deserves a renewed and expanded Federal commitment as we begin consideration of the reauthorization of ISTEA.

The additional benefits of reducing fuel consumption and improving the environment, not to mention the millions of Americans who are involved in the transit industry, provide extra reason to stop and explore the case for mass transit. In our States, citizens and communities depend on good public transportation for mobility, access to jobs and health care providers, environmental control, and economic stability.

In the context of ISTEA reauthorization, I intend to work closely with my colleagues to ensure that sufficient funds are available for improving our transportation infrastructure, including both highways and transit. As a first step, I was pleased to join 56 of my colleagues in a recent bipartisan letter to Budget Committee Chairman PETE DOMENICI urging that the fiscal year 1998 budget resolution reflect the need for increased transportation funding. Further, I am currently working on legislation that reflects the energy and environmental benefits of public transportation by increasing funding for mass transit and preserving the elements of the transit program incorporated in the 1991 ISTEA law. The additional benefits of reducing fuel consumption and improving the environment will be present if we do have the highway-transit conservation ideas uppermost in our minds. Mr. President, I have taken some time today since we are in morning business and since there is not business at hand to speak on the subject of the interrelationship between the way we handle mass transit and oil conservation in the context of what is going on in the Mideast and very serious potential problems which we face there.

Mr. President, I ask unanimous consent that an article in the New York Times from last Sunday be printed at the conclusion of my comments, entitled "Oil Imports Are Up. Fretting About It Is Down," which summarizes some of the statistical basis for legitimate concern if we do not do something about those oil imports and if we do not focus on them. As the headline notes, fretting about oil imports is down. It is passe. We do remember those long lines, many of us do, in 1973, and we do see the problems in the Mideast and the issue of stability of the Saudi Government.

This is the interrelation of problems which I think we have to address in a number of ways. We can address these problems through our foreign policy with the Saudis, and by trying to reduce dependency on foreign oil in a variety of ways, such as first, stimulating our domestic oil production consistent with environmental concerns, and second, reauthorizing the ISTEA programs, which will give us an opportunity to achieve some meaningful economies through mass transit.

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

[From the New York Times, Jan. 26, 1997]

OIL IMPORTS ARE UP—FRETTING ABOUT IT IS DOWN

(By Matthew L. Wald)

WASHINGTON.—In his second inaugural address last week, Bill Clinton made promises on the usual problems, like race relations, education and health. But another hardy perennial, the nation's dependence on imported oil, went unmentioned. Not gone but forgotten, this problem is larger than ever.

Imports have risen to record levels—about 50 percent of consumption, according to the American Petroleum Institute. Needing cash last year, the Government sold off about 25 million barrels from its Strategic Petroleum Reserve, the equivalent of almost three weeks of imports from Saudi Arabia. That hoard might have been precious in a crisis.

But there will not be another crisis quite like the oil shortages of 1973 to 1974 and 1979 to 1980, experts say, and there are reasons that might justify America's profligate course. Last year, domestic production decreased, but the oil companies delivered 2.8 percent more fuel to their customers. As a result, imports, which are relatively cheap, increased 6 percent, the institute said.

The contrast between the bad old days and today is stunning. When imports were 40 percent of consumption, Jimmy Carter, donning a cardigan, said that America should cut imports by nearly a third by 1985 and declared "the moral equivalent of war." As President Carter's energy czar, James R. Schlesinger, put it last week, Americans now have evolved to "indifference without moralizing."

Efforts to find substitute fuels for vehicles continue, along with programs to pump more domestic oil and conserve use. But dependence on foreign sources will grow anyway, the General Accounting Office said last month, because rising demand will outstrip all these efforts as the economy grows. Even without a population increase or new factories to consume more energy, new Chevy Astros, Mercury Villagers and other vans are roaring out of showrooms as old fuel-efficient Chevy Chevettes and Honda Civics head for the scrap heap. That means more fuel per mile.

Combined with declining domestic production, imports could rise to 60 percent of consumption by 2015, the G.A.O. said.

Hazel R. O'Leary, whose job as Energy Secretary ended with Mr. Clinton's swearing-in, said in an interview just before her departure, that the American people needed to get the message, but delivering it was beyond the ability of an Energy Secretary. She said it would take another oil shock.

And that appears about as certain as another hurricane in Florida or earthquake in California. The only question is when. Many of the elements are already in place; Larry Goldstein, the president of the Petroleum Industry Research Foundation, said that idle production capacity is only about three million barrels a day, all of it in the Persian Gulf. "If you were to have a disruption in Kuwait or Saudi Arabia," he said, "the ability of the world to make it up is zero. And nobody would honestly say the Middle East is more secure today than it was a decade ago."

But Mr. Goldstein and other experts say oil is no longer at the top of America's problem list for a number of reasons.

For one, interruptions in supply from the Persian Gulf are possible, but there is no enemy superpower poised to march in. "When the Soviet Union was still around, it had six airborne divisions seemingly ready to fly into the gulf," said Mr. Schlesinger, who also did a turn as Secretary of Defense. OPEC has lost power too, he said.

In fact, the so-called North-South confrontation of the 1970's, with rich oil-consuming nations facing off against poor energy-producing ones, is mostly gone. Daniel Yergin, president of Cambridge Energy Research Associates, pointed out that in the 1970's and 1980's, oil-producing countries nationalized their industries, but now they are privatizing them and asking for Western investment. "It's back to a high degree of

interdependence," he said. "Everybody wants to be on the same team now."

And America itself has changed. The amount of goods and services that 20 years ago required five barrels of oil to make now takes only three. Not only have utilities switched to coal and natural gas, but the output of the American economy has also shifted away from products using vast amounts of energy, like heavy manufactured goods, to those that use hardly any, like movies and computer software.

The price of oil is down, too. In 1980, oil sales were about 8.5 to 9 percent of gross domestic product. "Today, it's a little over 3 percent," Mr. Goldstein said.

Mr. Goldstein also distinguishes between dependency and vulnerability. If this country cut its dependency by several million barrels a day, it would still be just as vulnerable to price shock, he said, because in a free international market, "a disruption anywhere is a price shock everywhere." Making a similar point last month, the G.A.O. gave the example of Britain after the fall of the Shah of Iran and the subsequent price shock. That country was nearly self-sufficient in oil at the time, but when the price rose, the economic dislocation was severe. The G.A.O. report found that "vulnerability is linked to dependence on oil, not merely to dependence on imported oil."

Cheap oil is still a boon to the American economy. The G.A.O. put the benefits of cheap oil at hundreds of billions of dollars annually. Its analysis explicitly excluded the cost of human life in sending American soldiers back into Mideastern oil fields—or the limits that import dependency may impose an American foreign policy. In the current political climate, though, those costs do not seem to be high on anybody's list.

Mr. SPECTER. Mr. President, I thank the Chair and note the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

## EPA PROPOSED NEW AIR QUALITY STANDARDS

Mr. ENZI. Mr. President, I rise to express my deep concerns with the Environmental Protection Agency's proposed changes to air quality standards. The EPA kicked off the last Thanksgiving weekend by announcing its intention to move their air quality goalposts yet again. It seems they change the rules more frequently than the NFL and the NBA put together. I doubt there were many State or local governments that spent Thanksgiving giving thanks for that announcement. I was the mayor of Gillette, a coal producing town on the plains of Wyoming. I know firsthand how hard many of our Nation's cities and States have been working. They have been expending a huge amount of effort and dollars just to get into compliance with the standards established in 1990.

And let there be no mistake. Compliance, for better or worse, has been costly. It has been costly to small businesses, businesses that operate on thin profit margins in the best of circumstances. It has been costly to major industries that have spent hundreds of millions of dollars retooling their plants and factories to comply with that law. It has been costly to State and local governments that have had to divert scarce dollars to mandated planning and enforcement duties. And most of all, it has been expensive for the citizens who lose jobs when industries relocate overseas or to other areas of the country that are already in compliance. This costly compliance has resulted in the higher taxes levied to compensate for a smaller tax base. And citizens notice higher costs for goods and services.

I do recognize that the EPA excludes economic concerns from the formulation of their air quality standards. The 1990 amendments to the Clean Air Act require that oversight. The air quality standards established in 1990 have been beneficial to our Nation's environment and, by extension, our public health. Of course, the more radical environmentalists point to the absence of an economic apocalypse over the past 7 years as proof that no environmental standard is too strict and nothing is impossible. You and I know that nothing is impossible. But arm in arm with successes has come a dangerous corollary. It is also easy to believe that nothing is too outrageous.

In the name of species protection, logging in the Pacific Northwest has all but disappeared. Years of careful forest management had rendered these the most productive forest lands in the world. They are so productive that for every 100,000 acres of Pacific Northwest forest land taken out of production, we force a half-million acres of Siberian wilderness to be cut down to fill the void. Environmentalists may have saved a few spotted owls, but in the process they have probably signed the death warrant of the Siberian tiger. It is ridiculous to trade jobs for dubious environmental gain. It is ridiculous to think that we are saving the world by importing our natural resources. This is what Senator Hatfield used to refer to as "environmental imperialism"—imperialism inflicted on nations too desperate to ignore our resource markets yet too poor to enforce their own environmental standards.

Can the word "ridiculous" apply to the proposed standards themselves? The current standard for particulate matter limits particles to 10 microns or larger. The proposed standard would change that to particles larger than 2.5 microns. For comparison, a human hair is about 28 microns in width. For ozone, the current standard of .12 parts per million averaged over 1 hour would be replaced by a new standard of .08 parts per million averaged over 8 hours. In light of the fact that there are many cities across the Nation that have yet to satisfy the current standard and the fact that no one yet has justified these new standards, I think it is safe to say that the proposed standards fail the credibility test. The Congressional Research Service has stated that "The new standards would substantially increase the number of areas not attaining the Clean Air Act's air quality standards and magnify the difficulties faced by present nonattainment areas in reaching attainment." And the hardship to be imposed is without reasonable evidence of any additional benefit.

Billions—billions—of dollars were spent by cities and industry 10 years ago to comply with the current standards. Yet, now the EPA intends to require billions more to comply with the new standards. The capital invested in current compliance has yet to be paid off, in many instances. Areas that are not yet in compliance with the current standards will have to strengthen their restrictions by several orders of magnitude. The possibility of mandatory car pooling and bans on backyard barbecues and lawn mowing are ridiculous, but probably will be the result.

I can assure you they will not go over well in my State. Wyoming is populated with people gifted with a basic common sense. They are aggressively independent and free thinking. I can only imagine the head scratching that will ensue when they see county tanker trucks watering the dirt roads around there. After all, Wyoming has miles and miles of miles and miles, and many of those roads are gravel.

Anyone familiar with the average Wyoming winter understands the axiom that sand is safety, yet sand applied to ice-bound roads results in a dust level, and that dust level already violates the proposed standards in many communities. The current clean air standards are already causing wrecks and injury to people.

From an economic perspective, these standards will visit tremendous hardships upon my State and upon every State that depends on land-use industries. Wyoming is the largest coal producer in the Nation. Clean, low-sulfur coal, I might add. But mining does create some dust. Not really dust, it is smaller than that. That is why we are talking about the size of these particulates. I wish each of you would have an opportunity to visit a mine in Wyoming. Many of you would see a very clean industry. But now the particulates have to be even finer. And oil refining creates gases.

The Nation simply cannot have job-producing factories or heat in their homes without those byproducts. We are led to believe these standards would eliminate billowing clouds of pollution, but the current laws already

do that. These proposed standards would place enormous burdens on our mining and refining industries and would simply spell the end of many western refineries.

The Environmental Protection Agency and its handmaiden, the environmental movement, are engaging in a form of execution attributed to the ancient Chinese. It is known as death by 10,000 slices, and its current victim is the American economy. Each swipe of the knife results in wounds that are individually minor but cumulatively disastrous. With every burdensome standard, the blade flashes and another small business goes under. With every new expensive regulation, a new slice drips red and another plant or factory moves overseas. With every additional surtax, the knife whistles by, and the American family has less money to place back into the economy.

Mr. President, we must restore a semblance of balance and reason to our environmental laws. We must introduce cost-benefit analysis and risk assessment into the environmental equation. We must evaluate science above politics. We must honor the work of the last Congress in restricting unfunded Federal mandates. We must stop moving the goalposts on cities, towns, States, and businesses that are already working hard to comply. We must give business and industry incentives to work toward our spiraling environmental goals. It is a small planet. It is where you and I live. We can't keep shifting environmental problems to poorer countries who can't afford the level of clean air we enjoy. We must recognize that the worst thing in the world for the environment is not responsible logging or ranching or mining, but poverty.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

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

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

## CAMPAIGN SPENDING

Mr. DORGAN. Mr. President, I noticed in the newspapers this morning that the chairman of the Governmental Affairs Committee is suggesting that he be given some $6.8 million to hire some 80 investigators on the issue of investigating campaign irregularities, apparently including the ones that are in the paper about the Democratic National Committee, and more.

It seems to me the first step in dealing with the issue of irregularities in campaigns—and if there are some, they ought to be investigated—the first step would be to give the Federal Election Commission some teeth. Invest a little bit in the Federal Election Commission and give it some teeth, and let them investigate. But if we are going to investigate in Congress, if we are going to have a group of politicians investigating another group of politicians, I don't think we need $6.8 million to do that. But if they decide to do that, I have a suggestion: Go ahead and rent a truck and back it up to whatever house—the Republican National Committee or the Democratic National Committee—and I hope all of them will encourage their minions to load up all the relevant paper and let people read it to see who did what, who didn't do what and who didn't comply with laws and who did comply with laws.

But it ought to be more than that. The trail of trouble, it seems to me, in campaign financing isn't just in the national committees—and there are some problems in both national committees. One fellow went to jail already earlier this year on the issue on the other side of the aisle. There are plenty of questions on this side of the aisle with respect to the DNC.

Let's find out where the trouble was and correct it. But that is not the only place there is trouble on the campaign trail. Let's also investigate the growth of these 501(c)(3) organizations that some in politics have created to get tax-exempt money and use it in the political system. Let's follow that string wherever that leads.

In my judgment, there are a substantial number of questions that need to be addressed by investigators in that whole range of areas. Once we start down this trail, let's make sure we follow the fresh trail all the way to the end, not just take a look at one little building or another little building. Let's look at all of it.

I say to those who are concerned about it—and I am concerned about it—the first step ought to be for us to come to the floor of the Senate—we could do it this afternoon or early next week—and decide there is too much money in politics and we ought to limit campaign spending.

The Supreme Court says that is hard to do, but there are mechanisms by which we could do it. If Republicans and Democrats decided to create a system in which there were voluntary spending limitations, we would limit spending in campaigns, and we would solve a lot of these problems.

We have some folks trotting around here who think there is not enough money in politics. They say we spend more money on washing machines and dog food than we do on politics, suggesting somehow that politics is a commercial activity like everything else, just buy and sell.

Our political system is our democracy. It ought not be for sale. What has happened to money in politics is that it has ratcheted up out of control in an exponential way, and it is time for us to put some limits on campaign spending. Let's limit campaign spending, and let's make it stick. There is too much money in politics, and we can do the American democratic system and the American public a real service if we would, on a bipartisan basis, decide to come together and support campaign finance reform that has real and effective spending limits.

Yes, it can be done and it ought to be done today, tomorrow, next week or next month. We do not need $6 million or 80 investigators to do that. All we need is the will to decide there is too much money in American politics and we ought to limit campaign spending.

Take a look at what has happened with campaign spending relative to the consumer price index in this country. You will see the consumer price index has risen a bit and campaign spending has risen out of sight. There is too much money in politics, and we ought to adopt a bill that the President will sign that limits spending in our political system.

Some won't like that, I suppose. We have one party that spends twice as much as another party. I suppose they would say, "We have a 2-to-1 advantage, so why would we want to do that?"

We ought to do it to clean up the political system. The fact is, there have been abuses on both sides. Any abuse ought to be investigated, and we ought to investigate it thoroughly. Let's not take one little cause of abuses and say, "All right, let's drive our trucks over there and send all our investigators over there." Let's look at all the whole thing. Let's look at 501(c)(3)'s using tax exemption and trying to contravene the law. Let's find out how they have done it, why they have done it, and what laws they have broken. If we are going to have an investigation, we ought to open that investigation, make it aggressive and don't limit the vision.

## CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

Mr. DORGAN. Mr. President, we are going to have a vote on a constitutional amendment to balance the budget very soon. Some discussion on the floor of the Senate in the last day or so said that those of us who believe that when we put a provision in the Constitution requiring a balanced budget, we ought not enshrine in the Constitution the requirement to use the Social Security trust funds to balance the budget, because we think it is dishonest budgeting. They say, those of us who believe that, that is an accounting gimmick; just an accounting gimmick, they say.

There are two to three dozen folks over in the House of Representatives now, I am pleased to say, on the Republican side who are saying exactly what some of us have been saying for some

long while, that it is not honest budgeting to collect money from paychecks of workers, call it Social Security taxes, tell them we promise we will put it in a trust fund, and then use it as an offset for other revenue so you can claim the budget is in balance when it isn't.

To those who say this is an accounting gimmick, I ask one question: Why is it that when those who want to use this device of misusing Social Security trust funds to balance the budget, why is it when their budget is balanced, the Federal Government will still borrow $130 billion more that year? Why, if your budget is in balance, is the Federal debt still growing?

The answer: The debt is still growing when those who advocate this practice claim the budget is in balance because the budget is not in balance. It is a ruse. It is a charade. More than that, it is misusing money that if you did it in the private sector, you would be on your way to some minimum security installation, because you can't do it in the private sector.

If you run a business and say to your employees, "I will put money away in a pension program for you, but, by the way, I had a loss in my business this year so I am going to take your pension money and offset it against my loss so I can say to people that I haven't lost any money," what happens to you isn't very pretty, because that is against the law.

That is exactly what is proposed we enshrine in the Constitution, by saying that we should take the Social Security trust funds and declare them revenue with all other revenue and then declare that we have balanced the budget.

In the same year when we declare we have balanced the budget, we will have to increase the debt limit because the debt is still increasing. And when the folks in North Dakota or Wyoming or New Mexico or elsewhere ask us the question, "If you have balanced the budget, why did you have to increase the debt limit?" I want to be around for the answer, because the answer is, the budget was not balanced.

I think fiscal discipline is a pretty good thing. I come from a small town, a small school, a small State. We believe in fiscal discipline. I am pleased I have been one of those who cast votes to reduce the Federal budget. The deficit is down 60 percent in the last 4 years. The last 4 years in a row it has been down. I cast tough votes to do that.

I will continue to do that. I will cast a vote in the coming weeks to support a constitutional amendment to balance the budget. But I will not cast a vote that puts something in the Constitution that is wrong. And it is fundamentally wrong to suggest that we take that balance of trust funds every year and use it to balance the budget.

In 1983, I was on the House Ways and Means Committee. Mr. Greenspan, at that point, headed a commission to make recommendations on Social Security funding. The commission recommended that we begin to accumulate a pool of savings so that when the baby boomers retire, there will be some money in the Social Security system to pay for their retirement. That is going to be the maximum strain on the Social Security system.

So we began to accumulate a surplus this year. We will collect $70 billion more in Social Security than we spend from that same system. Why? Because we designed to save that.

I will ask any of my colleagues on the floor whether double-entry bookkeeping means you can spend it twice. Can you claim you are saving it when in fact you use it over here with ordinary revenue and claim you use it to balance the budget? The answer is "no". There is no study, no set of studies in this country, that allows you to make that claim.

That is why, when we have a vote on a constitutional amendment to balance the budget, we will vote on two of them. One I will vote for and offer along with colleagues, and one I will oppose. That is the one that says, let us enshrine in the Constitution a practice that I think is fundamentally dishonest budgeting.

Mr. President, I ask unanimous consent for 1 additional minute.

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

Mr. DORGAN. I wanted to visit some other issues today. I shall not do that and will wait until next week.

## REAUTHORIZATION OF ISTEA

Mr. DORGAN. Mr. President, one issue I want to visit is the need to reauthorize the ISTEA program or the highway program in this country. It is important for States like North Dakota.

I notice the Senator from Alaska is on the floor. He will, I am sure, have the same feelings about this that I have. We are large States in land mass, small States in population. We have a need to construct a network of highways still across our States for interstate commerce and for a whole range of needs, but we have a very small tax base with which to do it.

We have seen developed in this discussion who are the donor States and who are the donee States with respect to highway moneys. Well, that is largely irrelevant to me. If they want to ship fresh fruit and frozen fish from Boston to Seattle, do they want to ship them on gravel roads through North Dakota and Wyoming? I do not think so. We want to maintain and develop a National Highway System that works for everybody. That means that we need, as small States in the debate on this highway system, fairness for the highway needs for our States.

I will just say that as we work through this debate in the coming weeks and months, those of us who come from States like North Dakota and Wyoming and Alaska and others are going to be working very hard to make sure that we are treated fairly in this reauthorization. Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

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

## SUBCOMMITTEE ASSIGNMENTS, COMMITTEE ON APPROPRIATIONS, 105TH CONGRESS

Mr. STEVENS. Mr. President, the Committee on Appropriations held its organizational meeting on January 28. Among other business conducted, the Committee approved subcommittee assignments for the 105th Congress. I submit a list of the subcommittees and their membership for the 105th Congress, and ask unanimous consent that it be printed in the RECORD.

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

SUBCOMMITTEES

Senator Stevens, as chairman of the Committee, and Senator Byrd, as ranking minority member of the Committee, are ex officio members of all subcommittees of which they are not regular members.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

Senators Cochran,[1] Specter, Bond, Gorton, McConnell, Burns, Bumpers,[2] Harkin, Kohl, Byrd, Leahy. (6–5).

COMMERCE, JUSTICE, STATE, AND JUDICIARY

Senators Gregg,[1] Stevens, Domenici, McConnell, Hutchison, Campbell, Hollings,[2] Inouye, Bumpers, Lautenberg, Mikulski. (6–5).

DEFENSE

Senators Stevens,[1] Cochran, Specter, Domenici, Bond, McConnell, Shelby, Gregg, Hutchison, Inouye,[2] Hollings, Byrd, Leahy, Bumpers, Lautenberg, Harkin, Dorgan. (9–8).

DISTRICT OF COLUMBIA

Senators Faircloth,[1] Hutchison, Boxer.[2] (2–1)

ENERGY AND WATER DEVELOPMENT

Senators Domenici,[1] Cochran, Gorton, McConnell, Bennett, Burns, Craig, Reid,[2] Byrd, Hollings, Murray, Kohl, Dorgan. (7–6)

FOREIGN OPERATIONS

Senators McConnell,[1] Specter, Gregg, Shelby, Bennett, Campbell, Stevens, Leahy,[2] Inouye, Lautenberg, Harkin, Mikulski, Murray. (7–6)

INTERIOR

Senators Gorton,[1] Stevens, Cochran, Domenici, Burns, Bennett, Gregg, Campbell, Byrd,[2] Leahy, Bumpers, Hollings, Reid, Dorgan, Boxer. (8–7)

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION

Senators Specter,[1] Cochran, Gorton, Bond, Gregg, Faircloth, Craig, Hutchison, Harkin,[2]

Hollings, Inouye, Bumpers, Reid, Kohl, Murray. (8–7)

LEGISLATIVE BRANCH

Senators Bennett,[1] Stevens, Craig, Dorgan,[2] Boxer. (3–2–)

MILITARY CONSTRUCTION

Senators Burns,[1] Hutchison, Faircloth, Craig, Murray,[2] Reid, Inouye. (4–3)

TRANSPORTATION

Senators Shelby,[1] Domenici, Specter, Bond, Gorton, Bennett, Faircloth, Lautenberg,[2] Byrd, Mikulski, Reid, Kohl, Murray. (7–6)

TREASURY, AND GENERAL GOVERNMENT

Senators Campbell,[1] Shelby, Faircloth, Kohl,[2] Mikulski. (3–2)

VA-HUD-INDEPENDENT AGENCIES

Senators Bond,[1] Burns, Stevens, Shelby, Campbell, Craig, Mikulski,[2] Leahy, Lautenberg, Harkin, Boxer. (6–5)

[1] Subcommittee chairman.
[2] Ranking minority member.

SUBCOMMITTEE ASSIGNMENTS

SENATOR STEVENS

Commerce, Justice, State, and Judiciary
Defense (Chairman)
Foreign Operations
Interior and Related Agencies
Legislative Branch
VA-HUD-Independent Agencies

SENATOR COCHRAN

Agriculture, Rural Development, and Related Agencies (Chairman)
Defense
Energy and Water Development
Interior and Related Agencies
Labor, Health and Human Services, Education, and Related Agencies

SENATOR SPECTER

Agriculture, Rural Development, and Related Agencies
Defense
Foreign Operations
Labor, Health and Human Services, Education, and Related Agencies (Chairman)
Transportation and Related Agencies

SENATOR DOMENICI

Commerce, Justice, State, and Judiciary
Defense
Energy and Water Development (Chairman)
Interior and Related Agencies
Transportation and Related Agencies

SENATOR BOND

Agriculture, Rural Development, and Related Agencies
Defense
Labor, Health and Human Services, Education, and Related Agencies
Transportation and Related Agencies
VA-HUD-Independent Agencies (Chairman)

SENATOR GORTON

Agriculture, Rural Development, and Related Agencies
Energy and Water Development
Interior and Related Agencies (Chairman)
Labor, Health and Human Services, Education, and Related Agencies
Transportation and Related Agencies

SENATOR MCCONNELL

Agriculture, Rural Development, and Related Agencies
Commerce, Justice, State, and Judiciary
Defense
Energy and Water Development
Foreign Operations (Chairman)

SENATOR BURNS

Agriculture, Rural Development, and Related Agencies
Energy and Water Development
Interior and Related Agencies
Military Construction (Chairman)
VA-HUD-Independent Agencies

SENATOR SHELBY

Defense
Foreign Operations
Transportation and Related Agencies (Chairman)
Treasury and General Government
VA-HUD-Independent Agencies

SENATOR GREGG

Commerce, Justice, State, and Judiciary (Chairman)
Defense
Foreign Operations
Interior and Related Agencies
Labor, Health and Human Services, Education, and Related Agencies

SENATOR BENNETT

Energy and Water Development
Foreign Operations
Interior and Related Agencies
Legislative Branch (Chairman)
Transportation and Related Agencies

SENATOR CAMPBELL

Commerce, Justice, State, and Judiciary
Foreign Operations
Interior and Related Agencies
Treasury and General Government (Chairman)
VA-HUD-Independent Agencies

SENATOR CRAIG

Energy and Water Development
Labor, Health and Human Services, Education, and Related Agencies
Legislative Branch
Military Construction
VA-HUD-Independent Agencies

SENATOR FAIRCLOTH

District of Columbia (Chairman)
Labor, Health and Human Services, Education, and Related Agencies
Military Construction
Transportation and Related Agencies
Treasury, General Government

SENATOR HUTCHISON

Commerce, Justice, State, and Judiciary
Defense
District of Columbia
Labor, Health and Human Services, Education, and Related Agencies
Military Construction

SENATOR BYRD

Agriculture, Rural Development, and Related Agencies
Defense
Energy and Water Development
Interior and Related Agencies (Ranking)
Transportation and Related Agencies

SENATOR INOUYE

Commerce, Justice, State, and Judiciary
Defense (Ranking)
Foreign Operations
Labor, Health and Human Services, Education, and Related Agencies
Military Construction

SENATOR HOLLINGS

Commerce, Justice, State, and Judiciary (Ranking)
Defense
Energy and Water Development
Interior and Related Agencies
Labor, Health and Human Services, Education, and Related Agencies

SENATOR LEAHY

Agriculture, Rural Development, and Related Agencies
Defense
Foreign Operations (Ranking)
Interior and Related Agencies
VA-HUD-Independent Agencies

SENATOR BUMPERS

Agriculture, Rural Development, and Related Agencies (Ranking)
Commerce, Justice, State, and Judiciary
Defense
Interior and Related Agencies
Labor, Health and Human Services, Education, and Related Agencies

SENATOR LAUTENBERG

Commerce, Justice, State, and Judiciary
Defense
Foreign Operations
Transportation and Related Agencies (Ranking)
VA-HUD-Independent Agencies

SENATOR HARKIN

Agriculture, Rural Development, and Related Agencies
Defense
Foreign Operations
Labor, Health and Human Services, Education, and Related Agencies (Ranking)
VA-HUD-Independent Agencies

SENATOR MIKULSKI

Commerce, Justice, State, and Judiciary
Foreign Operations
Transportation and Related Agencies
Treasury, and Government
VA-HUD-Independent Agencies (Ranking)

SENATOR REID

Energy and Water Development (Ranking)
Interior and Related Agencies
Labor, Health and Human Services, Education, and Related Agencies
Military Construction
Transportation and Related Agencies

SENATOR KOHL

Agriculture, Rural Development, and Related Agencies
Energy and Water Development
Labor, Health and Human Services, Education, and Related Agencies
Transportation and Related Agencies
Treasury, General Government, (Ranking)

SENATOR MURRAY

Energy and Water Development
Foreign Operations
Labor, Health and Human Services, Education, and Related Agencies
Military Construction (Ranking)
Transportation and Related Agencies

SENATOR DORGAN

Defense
Energy and Water Development
Interior and Related Agencies
Legislative Branch (Ranking)

SENATOR BOXER

District of Columbia (Ranking)
Interior and Related Agencies
Legislative Branch
VA-HUD-Independent Agencies

## RULES OF THE COMMITTEE ON APPROPRIATIONS, 105TH CONGRESS

Mr. STEVENS. Mr. President. I submit, for printing in the RECORD, the rules of the Committee on Appropriations, which were adopted at the organizational meeting of our Committee on January 28. Under the provisions of paragraph 2 of rule XXVI of the standing rules of the Senate, the rules of each committee shall be printed in the

CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress.

I ask unanimous consent that the rules be printed in the RECORD.

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

RULES[1]

[1] Adopted pursuant to Rule XXVI, paragraph 2, of the "Standing Rules of the Senate."

I. MEETINGS

The Committee will meet at the call of the Chairman.

II. QUORUMS

1. Reporting a bill. A majority of the members must be present for the reporting of a bill.

2. Other business. For the purpose of transacting business other than reporting a bill or taking testimony, one-third of the members of the Committee shall constitute a quorum.

3. Taking testimony. For the purpose of taking testimony, other than sworn testimony, by the Committee or any subcommittee, one member of the Committee or subcommittee shall constitute a quorum. For the purpose of taking sworn testimony by the Committee, three members shall constitute a quorum, and for the taking of sworn testimony by any subcommittee, one member shall constitute a quorum.

III. PROXIES

Except for the reporting of a bill, votes may be cast by proxy when any member so requests.

IV. ATTENDANCE OF STAFF MEMBERS AT CLOSED SESSIONS

Attendance of Staff Members at closed sessions of the Committee shall be limited to those members of the Committee Staff that have a responsibility associated with the matter being considered at such meeting. This rule may be waived by unanimous consent.

V. BROADCASTING AND PHOTOGRAPHING OF COMMITTEE HEARING

The Committee or any of its subcommittees may permit the photographing and broadcast of open hearings by television and/or radio. However, if any member of a subcommittee objects to the photographing or broadcasting of an open hearing, the question shall be referred to the Full Committee for its decision.

VI. AVAILABILITY OF SUBCOMMITTEE REPORTS

To the extent possible, when the bill and report of any subcommittee are available, they shall be furnished to each member of the Committee thirty-six hours prior to the Committee's consideration of said bill and report.

VII. AMENDMENTS AND REPORT LANGUAGE

To the extent possible, amendments and report language intended to be proposed by Senators at Full Committee markups shall be provided in writing to the Chairman and Ranking Minority Member and the appropriate Subcommittee Chairman and Ranking Minority Member twenty-four hours prior to such markups.

VIII. POINTS OF ORDER

Any member of the Committee who is floor manager of an appropriation bill, is hereby authorized to make points of order against any amendment offered in violation of the Senate Rules on the floor of the Senate to such appropriation bill.

## TRIBUTE TO THE LATE ROBERT B. ATWOOD, ALASKA PIONEER

Mr. STEVENS. Mr. President, Alaska lost one of its greatest 20th century pioneers this month, when Robert B. Atwood died on January 10.

Many today remember him as the man who edited and published Alaska's largest newspaper, the Anchorage Times, for more than 50 years.

But some of my best memories are of the hours and days and weeks we spent together in the 1950's, when he was chairman of the Alaska Statehood Committee and I was assistant to the Secretary of the Interior Fred Seaton as Alaskans sought Statehood.

Bob Atwood was a leader in that fight. He crystallized the support of our Nation's press to put the 49th star on our flag. It was his understanding and knowledge of the news media, and his friendships among editors and publishers across our Nation that brought the press on board, to champion the cause for bringing Alaska into the union. Not too many years later, he was responsible for newspapers across our Nation understanding the importance of building our great Alaska pipeline.

Bob Atwood was more than a great publisher, more than the successful chairman of the Statehood Committee. He was a cultural renaissance man, who did much behind the scenes to promote the arts and education in Alaska.

Bob loved new technology, and brought his newspaper into the computer age long before most of the Nation's largest dailies were on line. He was the first one on the staff of the Anchorage Times to learn how to use the new computers, while his staff struggled with the transition from typewriters to the electronic age.

His knowledge of history, and of the many serious- and humorous-stories about Alaska and Alaskans who shaped my State's history, was extraordinary. Bob was generous in sharing those stories with organizations and groups who asked him to speak or to attend their meetings.

Above all, Bob Atwood understood the importance of a strong military presence in Alaska, the crossroads of the world, and he helped to make the Nation aware of our strategic global position.

He was a tireless supporter of our service men and women, and remained friends with many of them long after their tours of duty in Alaska were over. For 40 years Bob served on the military's civilian advisory boards in Alaska, and was president since 1976 of the Alaskan Command Civilian Advisory Board. He assured that in Alaska there was—and still is—a partnership between our military stationed in our State and Alaskans.

Immediately after the 1964 earthquake, he told me he wanted to buy land and build a house close to the area most damaged by the earthquake, to show his confidence in the future of Alaska. He built that house and opened it up time and again to men and women from our State and hundreds of others he had met during his travels in our country and all over the world.

My friend Bob was quietly generous to a number of causes which were never publicized. In addition, he was proud of those which bear his name, to which he donated millions of dollars, including the Atwood chair in journalism at the University of Alaska, the Atwood Center at Alaska Pacific University, and the Evangeline Atwood Theater at Anchorage's performing arts center. His generosity touched the lives of thousands of Alaskans, though they may never have known it.

Bob Atwood had the manners of an old-fashioned gentleman, the curiosity and sense of fun of a youngster, and writing and editing talents that could only be achieved through graceful maturity and a great understanding and love of words.

In helping to make life better for all Alaskans, Bob Atwood made history. He was indeed a great man, who helped to make our great land even greater. He was also a dear, good and loyal friend. I will miss him. Our sympathy goes out to his daughter Elaine and his grandsons and granddaughter, to whom he was devoted.

As a visitor comes into my office, there is a photo of Bob Atwood and me with our snowmachines in the broad fields near Alyeska, the ski resort in my home town, Girdwood, AK. I cherish those days when I spent time there with Bob, with Evangeline and Elaine Atwood.

Bob was a true Alaskan—a real pioneer.

Thank you very much, Mr. President.

## TRIBUTE TO MAJ. GEN. CONRAD F. "NICK" NECRASON

Mr. STEVENS. Mr. President, our Nation lost one of the genuine heroes of World War II, a man who went on to a distinguished second career in Alaska, when Maj. Gen. Conrad F. "Nick" Necrason died this last month.

He was the recipient of the Silver Star, the Legion of Merit, and the Distinguished Flying Cross. He also received our State of Alaska's highest military award, the Legion of Merit.

He began his career at West Point. After his 1936 graduation, he went on to flying school, earning his wings in the Army Air Corps the next year.

When the Japanese attacked Pearl Harbor, General Necrason was flying to Pearl Harbor as part of a bomber squadron. He loved to tell the story of how he had to land on a golf course during the battle—the attack of the Japanese on Hawaii.

During World War II, General Necrason flew 360 air combat hours,

and was recognized for developing low-level bombing techniques. He flew a whole variety of aircraft, most notably P–38 fighters and B–17 bombers. In 1943, he was wounded in action over Burma.

A few years later, he flew bombers during the Korean conflict.

General Necrason came to Alaska at an exciting time, just as statehood dawned, and was commander of the Alaskan Air Command at Elmendorf Air Force Base from 1958 to 1961.

After retirement in 1965, he became Alaska's Adjutant General and commander of the National Guard, serving from 1967 through 1972, and again from 1974 to 1982.

During those years, he effected a successful restructuring of the Alaska Army National Guard and the Alaska Air National Guard.

He brought the great workhorses of the air, C–130's, into service in Alaska, expanded our Eskimo scout contingent by establishing training programs for women, and led the guard in helping Alaska and Alaskans through floods and other natural disasters.

While many describe him as a soldier's soldier, Nick Necrason was equally as well-liked and at home in the civilian community.

He was known for his skill at bridge and at poker, and with his wife, Myrle, who survives him, as a gracious host, welcoming people from all parts of our State and our world to their home.

General Necrason's heroism during combat, his distinguished peacetime career, and his contributions to Alaska will not be forgotten. We extend our deepest sympathy to his wife Myrle, daughters Ginger and Sandy, and his grandchildren.

Thank you, Mr. President.

## LT. GEN. SAMUEL E. EBBESEN, U.S. ARMY

Mr. STEVENS. Mr. President, today I salute an outstanding military officer, Lt. Gen. Samuel E. Ebbesen, U.S. Army. General Ebbesen is retiring this month with more than 35 years of dedicated service to our country, culminating in assignments as Commanding General, Second United States Army, and Deputy Assistant Secretary of Defense for Military Personnel Policy.

In his most recent position, he was responsible for the establishment of all policies concerning military personnel matters including accessions and retention programs; compensation and benefits; and the classification, assignment and career development for the 1.4 million service members of the Department of Defense. His accomplishments were many, resulting in improved quality of life for our service members and the enhanced readiness of our Armed Forces.

General Ebbesen, a native of St. Croix, VI, was commissioned in 1961 through the Reserve Officer Training Corps [ROTC]. He holds a Bachelor of Arts degree in political science from City College of New York and a Masters degree in public administration from Auburn University. His military schooling includes the Infantry Officer Basic and Advanced Courses, U.S. Army Command and General Staff College, and the Air War College.

During his distinguished career, General Ebbesen served in numerous leadership and key staff positions throughout the Army. He served as the commanding general, 6th Infantry Division, Light, Fort Wainwright, AK, as the deputy commander, Alaska Command [ALCOM] and as the assistant division commander, 6th Infantry Division, Light. After the division relocated—north of the range—in Alaska, General Ebbesen was instrumental in successfully integrating the 6th Infantry Division—Light—into the Fairbanks community. He fostered strong community relationships which endure today. Under General Ebbesen's tenure, the 6th Infantry Division achieved safety records which were unsurpassed in the United States Army at that time. This record was achieved in spite of adverse and difficult climatic conditions. He ensured that the 6th Infantry Division were pivotal players in the U.S. Pacific Command's Expanded Relations Program throughout the Asia-Pacific region. Further, General Ebbesen significantly improved quality of life for those soldiers and their families stationed throughout Alaska.

Additionally, General Ebbesen served as the Deputy Chief, Legislative Liaison, Office of the Chief of Legislative Liaison, United States Army, Washington, DC; Chief of Staff, I Corps, Fort Lewis, WA; commander, 1st Brigade, 101st Airborne Division, Air Assault, Fort Campbell, KY; Deputy Chief, Plans and Operations Division, and later Executive Officer, Office of the Chief, Legislative Liaison, Office of the Secretary of the Army, Washington, DC; and Commander, 2d Battalion, 32 Infantry, 7th Infantry Division; Executive Officer, 2d Brigade, 7th Infantry Division; and G3, 7th Infantry Division, Fort Ord, CA.

General Ebbesen's military awards and decorations include the Defense Distinguished Service Medal, Legion of Merit—with 3 Oak Leaf Clusters, Bronze Star Medal with "V" Device—with 2 Oak Leaf Clusters, Meritorious Service Medal—with Oak Leaf Cluster, Air Medal and Army Commendation Medal—with 2 Oak Leaf Clusters. His combat assignment and training resulted in the award of the Combat Infantry Badge. Expert Infantry Badge, Parachutist Badge, and Air Assault Badge. He is authorized to wear the Army General Staff Identification Badge and the Office of the Secretary of Defense Identification Badge.

Mr. President, I ask you and our colleagues to join me in saluting General Ebbesen for his distinguished service to this great Nation and to the great State of Alaska, as well as his superb leadership of the men and women of our Armed Forces. It is with great pride that I congratulate him upon his retirement and wish him the very best.

## MARITIME SECURITY PROGRAM IMPLEMENTATION

Mr. LOTT. Mr. President, I rise today to draw my colleague's attention to the outstanding efforts and hard work of the men and women of the U.S. Maritime Administration. I want to offer my own heartfelt thanks to those individuals for their hard work and dedication in swiftly implementing the Maritime Security Act.

The Maritime Security Act, which was approved by the Senate on September 24, and signed into law by the President on October 8 last year. It will ensure the continued viability of the U.S.-flag merchant marine. It will guarantee that there will be an adequate number of private-sector, U.S.-flag vessels on hand for the Department of Defense in times of war or national emergency. Our Nation will continue to support a base of maritime employment to provide trained, loyal U.S.-citizen merchant mariners to crew the Department of Defense's Ready Reserve fleet of sealift vessels.

Quite simply, without this legislation the United States might have lost its merchant marine. Some of our Nation's most honored former military leaders let us know last year, in no uncertain terms, just how costly that would be. Our Armed Forces are counting on the U.S.-flag merchant marine to bring them the supplies they need to sustain their operations on hostile shores. If history has taught us one lesson, Mr. President, we should hold a deep appreciation for the importance of the U.S.-flag merchant marine to our Nation's security. That is why the outstanding efforts of the Maritime Administration deserves recognition.

In the days following enactment of the Maritime Security Act, the staff of the Maritime Administration worked tirelessly to iron out the contracts between the Government and the individual U.S.-flag vessel operators. This is the backbone of the Maritime Security Program.

At the same time, MARAD staff coordinated their efforts with the Department of Defense. This ensured that only the most modern and most militarily useful U.S.-flag vessels are chosen for the Maritime Security Program. These efforts will enhance our national defense capabilities.

The first contracts were signed last month, just before the holidays. And, I am pleased to report to my colleagues that the final contracts were just recently signed. In just 4 months, the complete 47-ship Maritime Security

Fleet has become a reality. We have MARAD to thank for taking our vision and translating it into a viable program.

I want to recognize the Administrator of MARAD, Vice Adm. Albert J. Herberger. His firm leadership at the helm of his agency has been exemplary. Vice Admiral Herberger is widely respected in the maritime industry, and his abilities as a manager, a negotiator and an administrator, coupled with his extensive military experience, played a major role in implementing this legislation.

The implementation of the Maritime Security Program also required the efforts of many MARAD employees. I want to take a moment to recognize several workers by name: Debra Aheron, Ray Barberesi, Murray Bloom, Joan Bondareff, Cher Brooks, Thomas Bryan, Jim Caponiti, Veronica Carver, Sharon Cassidy, Rhonda Davis, William Ebersold, John Graykowski, Steven Jackson, William Kurfehs, John Lesnick, Richard McDonnell, Jeffrey McMahon, Robert Patton, Carol Powell, John Swank, Kenneth Willis, and Joan Yim.

To conclude, Mr. President, I would like to add that the Maritime Administration will continue to administer the Maritime Security Program throughout the 10-year life of the Maritime Security Act. Although the work from the good folks at MARAD is just the beginning, we should honor their efforts. They have done so much to ensure that the American flag will still fly in the world's sea lanes. American merchant mariners will be on the decks of those ships. And, our Armed Forces will have the necessary strategic sealift capability to project America's presence overseas.

Thank you, MARAD.

## RETIREMENT OF PROCTOR JONES

Mr. FORD. Mr. President, today marks the last day for one of the Senate's most competent and skilled legislative aides. Proctor Jones, staff director of the Appropriations Subcommittee on Energy and Water Development has spent the last 36 years helping to assure the legislative process moves forward. I know I am just one of many who are grateful for his guidance on a wide array of energy issues.

During his tenure in the Senate he has gained a reputation for doing his homework, having a deep understanding for the appropriations process, and perhaps most important, fairness. He was invaluable in securing major projects for my home State of Kentucky, and I feel certain his handprint can be found on important projects all across the country.

Jones leaves the Senate with an incredible body of knowledge, expertise and institutional knowledge. He also leaves after literally being the right hand of such powerful chairmen as Senators Russell, Ellender, McClellan, Magnuson, Stennis, BYRD and Hatfield.

It will be a huge loss to the Senate and to States like mine that have benefitted from his knowledge and expertise. But there's no doubt that Jones will continue to serve the greater community working with former Senator Johnston.

Let me close by wishing him and his family the best of luck and by once again thanking him for his commitment not only to the U.S. Senate, but to the American people. His service will not be forgotten and will continue to impact generations to come.

## TRIBUTE TO PAUL TSONGAS

Mr. SARBANES. Mr. President, last week, America lost a public servant and a leader of unusual intelligence and vision. It is with great sadness that I rise to pay tribute to my former colleague and friend, Paul Tsongas, whose untimely passing has deeply affected both those who knew him well and the millions of Americans who respected and admired his exemplary life.

His frank and fearless commitment to a better America challenged us all. As remembered by the Hellenic Chronicle, a Massachusetts publication, Senator Tsongas "changed the face of politics in the 1990's and reminded us that honesty and the power of ideas can still count for something in American politics." He was unwavering in his ideals because he truly believed them. At his funeral, Bishop Methodios of Boston spoke of Senator Tsongas' insight, integrity and intelligence; fitting qualities for a person who, as the Bishop said, "looked deep within his heart and soul and there discovered his vision for a better America."

The son of a Greek immigrant, Senator Tsongas went from working in his father's drycleaning store to Dartmouth College, Yale Law School, and the Peace Corps. He won his first bid for public office in 1969, when he was elected to the Lowell City Council, the beginning of an esteemed career that included service as Middlesex County Commissioner in 1973, fifth congressional district representative to the U.S. House in 1974 —the first Democrat to win in his district in a century, and United States Senator from Massachusetts in 1979, an office never before held by a Peace Corps veteran.

In the Senate, I was privileged to serve with Senator Tsongas on the Banking and Foreign Relations Committees, where he fulfilled his duties with great capability and distinction. His understanding of the world beyond our borders, gained during his service in the Peace Corps, equipped him to make a significant contribution to a more effective American foreign policy. Senator Tsongas never took the privilege of being a U.S. Senator for granted. He was serious about his work and had high hopes and even higher standards for this country.

"Patriotism is like charity," wrote Henry James. "It begins at home." For Senator Tsongas, everything began at home. Whether it was Lowell, the town in which he made his life, or the family that was his life, Senator Tsongas never lost sight of what was most important. He often questioned the legacy he would leave behind for the people and places he cared for most. He should not have been concerned. Due to his efforts both in and out of office, the town of Lowell now claims a national historic park, thousands of jobs, a minor league baseball team, 14 new schools, and a real sense of pride. As the local paper noted, "We in Lowell need only walk through our city to celebrate—every day—what Paul Tsongas did for his hometown."

I will always remember Paul Tsongas, as will his fellow Americans, as a highly principled public servant who, unafraid of any challenge, was exceedingly able to affect the issues of his time. I will also remember him as the individual who inspired us all by confronting his own mortality with extraordinary grace and heroism. His faith in his own instincts not only gave him the courage to step down from office when the time was right, it was also the source of his strength during his distinguished service in the Congress of the United States.

Senator Tsongas left an indelible mark on our hearts, which now go out to his wife Niki, his daughters Ashley, Katina and Molly, and his sisters Thaleia and Vicki. They have so much to mourn, but they also have so much of which to be proud.

There is a requiem hymn sung in the Greek Orthodox Church which, here, seems apropos: "Eonia e mneeme." It means, "may he live in our memories forever." In the last years of his life, Senator Tsongas struggled with the question of history, with what he would leave us. The answer is, clearly, much. Paul Tsongas will live in the memories and records of his country, his town, and his family, forever.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I know that Senator KENNEDY wanted to be recognized, but because he is not here I ask unanimous consent that I be permitted to speak in morning business for such time as I may consume.

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

## CHINA: THE FUTURE

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to have printed in the RECORD a speech that this Senator made to the Asia Society yesterday morning entitled, "China: The Future."

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

CHINA: THE FUTURE

(By Senator Dianne Feinstein)

As a Californian, I have been surprised to discover how Washington, and the whole East Coast foreign policy establishment tends to look primarily across the Atlantic to Europe, and how little it looks to Asia and the Pacific.

But the fact is that U.S. interests are no longer primarily in Europe. You've heard the phrase "the dawning of the Pacific Century" many times. Well, the Pacific Century is here.

Consider these facts: The Pacific trading theater has long since overtaken the Atlantic. Overall trade with Asia stands at $570 billion. With Europe it is $270 billion. Trade with Asia accounts for more than 30 percent of U.S. exports and close to 40 percent of U.S. imports. And today, more than 60 percent of the world's population lives on both sides of the Pacific Ocean.

All of this illustrates what Secretary of State John Hay meant when he said nearly a century ago: "The Mediterranean is the ocean of the past; the Atlantic, the ocean of the present; and the Pacific, the ocean of the future." That future is now.

CHINA'S IMPORTANCE

The single most important question facing the future of peace and prosperity in Asia is how China develops.

And there is no more important challenge facing U.S. foreign policy than the question of how to peacefully engage China in the international community.

China's influence is felt in so many ways: China's population of 1.25 billion, is nearly one quarter of the world's inhabitants; China's sheer size—her geographical reach includes common borders with such key nations as Russia, Japan, Korea, and India, and includes vast quantities of untapped natural resources; China's expanding military prowess, including a 3 million-man army, and her status as one of the five declared nuclear powers in the world today; China's permanent seat on the U.N. Security Council; and China's remarkable economic growth of roughly 10 percent a year, which has vaulted it to the position of the world's 11th largest exporter—China is where Japan was in 1980, but growing much faster.

For all of these reasons, the U.S. relationship with China is probably our single most important undeveloped bilateral relationship in the world today.

In 1997, Sino-American relations are entering a crucial new phase, ripe with both danger and opportunity.

Events in the next year, and how they are handled by Washington and Beijing, will determine for some time to come the nature of the relationship between our two countries.

I was very pleased to hear our new Secretary of State, Madeleine Albright, articulate the Administration's policy in clear terms during her confirmation hearing before the Foreign Relations Committee. She said: "Our goal is to expand areas of cooperation, reduce the potential for misunderstandings and encourage China's full emergence as a responsible member of the international community."

And, while she recognized that our two nations have important differences, the Secretary also stressed that we have a multifaceted relationship with China.

I want to make some comments this morning on what I believe to be the central issues in the U.S.-China relationship today: the question of engagement versus containment; the China-Taiwan relationship; nuclear proliferation; human rights; the trade imbalance; trade issues such as Most-Favored Nation status, Intellectual Property Rights, and China's accession to the WTO; and the transition of Hong Kong.

THE "ENGAGEMENT VS. CONTAINMENT" DEBATE

This question should be settled by now, but unfortunately it is not. There are still those who see China as an enemy, and who want the U.S.-China relationship to be modeled on Cold War strategies of the past, Containment is their mantra. But there are two problems with this approach:

First, it has not and will not work. No other country will join us in trying to contain the largest country and one of the fastest growing economies in the world.

Second, containment is not in the interest of the United States. We have far too many mutual interests with China—interests which far outweigh our differences, including: preserving stability, and preventing arms races in Northeast and Southeast Asia; a peaceful, non-nuclear Korean Peninsula; preventing nuclear escalation between India and Pakistan; preventing the introduction of nuclear or other destabilizing technology into the Persian Gulf; keeping sea lanes open for international commerce; maintaining the prosperity of Hong Kong and Taiwan; and curbing the trafficking of narcotics.

Attempting to influence these critically important issues by isolating China is a fruitless and very dangerous course of action. The only way we can make progress on these issues is through active engagement.

I have been saying for the past four years that I have been in the Senate that the U.S. needs to develop a long-term, strategic framework for building a relationship with China, based on our many mutual interests.

No single issue should be a litmus test for the entire U.S.-China relationship.

Managing and developing a positive relationship with China does not mean we must ignore the importance of key issues of concern with China—such as human rights, the transition of Hong Kong, or the issue of Taiwan. It does, however, mean that we should not allow our entire relationship to be called into question each time an incident occurs.

The United States must develop a long-range, strategic plan for our relationship with China.

The US must engage China. This engagement must be ongoing, it must be consistent, and it must be formed at the highest levels.

To date, interaction at the Presidential, Vice Presidential, Secretary of State, and Secretary of Defense level has not been frequent or deep enough. There is no "red telephone", no ability for the two Presidents to talk and work with each other during a crisis.

We cannot engage China solely at a second-tier level. Talks at the Deputy Assistant Secretary level are not sufficient, and, in the absence of regular higher level contacts, are probably counter-productive in the message it sends to China's leaders.

Secretary Albright will be meeting soon with Foreign Minister Qian Qichen, and she is committed to regular contact with her counterparts in Beijing. Vice President Gore will be traveling to Beijing this spring, setting the stage for an exchange of presidential visits this fall and next year.

These are positive steps that I hope will lead to development of sustained communication at the very highest levels.

President Clinton has an opportunity to shape the future course of Sino-American relations by developing a positive working relationship with Chinese President Jiang Zemin and other leaders, I hope he will seize this opportunity.

Congress also has an important role to play in this process.

It is critical that more members of Congress travel to China, meet with those in the Chinese leadership and others, and develop a working dialogue with those who are creating the China of the 21st century.

THE CHINA-TAIWAN RELATIONSHIP

Taiwan remains the one issue with the greatest potential to seriously disrupt efforts to stabilize the U.S.-China relationship. It is impossible to overstate the depth of Chinese feelings about Taiwan's role in the U.S.-China relationship. They are real, visceral, and deep.

During my trip this past November, Chinese officials and citizens made it clear: If the Taiwan issue is handled well, everything is possible in Sino-American relations; if it is mishandled, it will continue to shock, and possibly derail, U.S.-China relations.

The United States should, I believe, consistently and authoritatively reaffirm, both to Beijing and to Taipei, its commitment to the long-standing and bipartisan "One China" policy, as outlined in the three Joint Communiques.

It must be remembered that the status quo has been beneficial to all three parties, allowing Taiwan to become prosperous and democratic, and the U.S. and China to develop normalized relations befitting two world powers.

So Taiwan must understand that its efforts to assert itself internationally cannot be a guise for moving towards independence.

For its part, China should consistently make clear that reunification would take place only through peaceful means, and should refrain from any aggressive military actions and rhetoric.

Any impression that China might try to settle the Taiwan issue by the use of force presents a challenge not just to Taiwan but also, under the Taiwan Relations Act, to the United States as well. We could not stand idly by and countenance a military attack.

At the same time, Washington must make clear to Beijing that U.S. interests require continued robust—albeit unofficial—ties with Taipei, which are consistent with the "One China" policy.

Such unofficial access, however, should not be confused in either Beijing or Taipei as an invitation for official recognition by the U.S. We must not allow another incident such as the issuance of a visa to President Lee Teng-hui two years ago to needlessly provoke a crisis.

The United States should encourage Taiwan and China to resume the Cross-Straits Initiative that was conducted by China's Association for Relations Across the Taiwan Straits and Taiwan's Straits Exchange Foundation, which showed such promise until it was derailed a year and a half ago.

NONPROLIFERATION

One of the most important areas of concern in our relationship with China is nuclear nonproliferation.

Clearly China's record on nonproliferation is mixed. China has ratified the Chemical Weapons Convention—something the U.S. Senate has not yet done—and signed the Comprehensive Test Ban Treaty, as well as cooperated in efforts to extend the Nuclear Nonproliferation Treaty (NPT) indefinitely.

China has made important commitments, such as abiding by the guidelines of the Missile Technology Control Regime (MTCR) and

not providing assistance to unsafeguarded nuclear facilities.

Nevertheless, we continue to have concerns about nuclear and missile technology that China has provided to Pakistan, and the possibility of similar sales to Iran.

It is vital that China be engaged in a new security partnership, one that is cooperative rather than confrontational. As I said earlier, isolating a nation of China's growing power and influence makes little sense.

China has recognized our mutual interest in preventing nuclear proliferation in North Korea. It is also clearly in the interests of both China and the United States to ensure that tensions are de-escalated in South Asia, where both India and Pakistan have the ability to launch nuclear devices in a matter of days.

We should encourage China to join us in the development of a coherent nuclear nonproliferation strategy, as a co-guarantor of stability and security in these regions.

We must try to convince China that arms control regimes should be adhered to not for ideological or legalistic purposes, but because they are in China's own best interest.

If China is willing to become an active and responsible party to international treaties and regimes, China should be granted an equal say in setting the "rules of the game." China must, of course, then agree to abide by those rules along with every other nation.

A partnership between China and the United States toward nuclear non-proliferation and stability is the key to success in these regions.

HUMAN RIGHTS

As I said earlier, no issue should be a litmus test in our relationship with China. But at times, human rights has been just that.

The U.S. has tried lecturing China on human rights; We have expressed outrage, and our relationship has zigged and zagged with each arrest, newly reported case of torture, or other egregious happening; And we have tried linking human rights to Most Favored Nation trading status.

These efforts have clearly been unsuccessful.

Let me speak about the negatives first.

I am remain deeply concerned by China's treatment of dissidents and its constant persecution of Tibetans in Tibet. I have talked with Tibetan refugees personally—some in Napal this past November—and I believe their stories to be true.

I believe there has been a tightening by the Chinese government on human rights in the last year.

For those of us who watch China closely, there are a number of signs. There has been a recent crackdown on religious liberties.

In Jiangxi province in November, 80 Catholics were arbitrarily arrested without warrants, beaten, and jailed.

There have been many recent arrests of leading dissidents, often resulting in disproportionately long sentences. Fro example: Wei Jingsheng was sentenced for 14 years; Chen Xi was sentenced for 10 years; Wang Dan was sentenced for 11 years in prison plus two years deprivation of political rights.

I cannot conceive of a reason why it is in China's interests to do these things. But whatever the reason, it is very disturbing, and it portends real danger for Hong Kong, which is a very religious Chinese community.

But let me also mention the positive side.

It must be recognized that progress is taking place in China. For example, the National People's Congress just enacted legislation intended to: help protect individuals from arbitrary punishment by police and government agencies; limit the practice "administrative detention" to thirty days; and require the State Council to secure the approval of the National People's Congress before declaring martial law.

As one who has traveled to China dozens of times over the last 20 years, it is clear to me that there have been remarkable changes: an increasing standard of living, increased wages, and savings, and improved education of the people; greater mobility and a freer lifestyle for the average Chinese; local and provincial governments that are more independent from Beijing—with over 300 million Chinese participating in direct local and provincial elections; a growing web of private property ownership in the provinces, and greater legal protection for the owners and investors in private enterprises; a more accessible court system for Chinese citizens to contest government actions that infringe on their freedoms and property.

To appreciate the scope of these changes one only needs to look back a mere 35 years to the Cultural Revolution and Great Leap Forward, during which millions of Chinese lost their lives in unprecedented brutality.

Yes, these changes are in their infancy compared to Western standards, but it is important to understand that China is a $5,000 year old nation—a nation governed by the rule of man for most of its history. It will not transition to the rule of law overnight—no matter how much pressure is applied from outside forces.

It was interesting for me to read an article by Henry Rowen entitled "The Short March," in which he describes conducting a Lexis-Nexis search on China and human rights in five major U.S. publications.

For the period January 1991 through June 1996 he found "on the one hand, 356 stories on abuses of various kinds, and on the other hand, 3 on local elections, 16 on efforts to introduce a rule of law, and 10 on the liberalizing of the mass media: in short, an overall ratio of 12 to 1."

So clearly, the bad gets reported and the good does not.

I believe that China will not change its ways merely to please America. The real key to change is convincing China that it in China's interests to change. And I believe that this can be done.

Most importantly, the U.S. should work with China to develop a modern legal system with an independent judiciary, due process of law and a modern penal and civil codes. China is receptive to our help in this area.

Through engagement and assistance such as this we can do more to advance the cause of human rights in China in the long run than through constant castigation, or isolation.

I would like to make a proposal that may be acceptable to both sides. I would propose a presidential human rights commission or forum. This commission would be appointed by both presidents, with the mission of charting the evolution of human rights in both countries over the last 20 to 30 years.

In reports to be delivered to both presidents, the commission would point out the successes and failures—both Tiananmen Square and Kent State—and make recommendations for goals for the future.

THE GROWING TRADE IMBALANCE

Another area of increasing concern is the growing trade gap with China.

What is essentially a trade problem today will become an acute political problem in the U.S.-China relationship if it is left unaddressed.

I have communicated my concern about this issue to the Chinese leadership. They agree that this is a potential problem, but they dispute the size of the trade imbalance.

The United States calculates the imbalance at about $38 billion, while the Chinese figure is closer to $10 billion.

When I was in China in November I proposed to Zhu Rongji, the Executive Vice Premier, who is in effect China's economic czar, that the United States and China establish a joint working group to sit down and establish once and for all a common method of calculating the trade imbalance, especially after Hong Kong's reversion to Chinese rule. Zhu Rongji told me he would support such a proposal.

MOST FAVORED NATION STATUS

Another constant flashpoint is the annual battle over China's Most Favored Nation Trading status.

Every summer Congress and the Administration go through a sort of ritual dance over the extension of MFN status to China. Congress had never overridden a President's decision to extend MFN for China, but we have often voted on it anyway.

Last year, the House, by a resounding vote of 286–141, rejected an attempt to deny or condition China's MFN status. It would be helpful to have that vote settle it once and for all, but, unfortunately, we are less than five months away from the next go around, which I suspect may not be any less rancorous.

The political implications of revoking MFN for China are great. For a country such as China, where face and respect are such central issues, the debate over revoking MFN is seen as tantamount to the United States telling China that we are still unsure whether to accept them as a member of the family of nations.

Denying MFN would seriously impair our ability to work with China on just about *any* issue.

Clearly, linking human rights with MFN has been a failure. I hope we do not make the same mistake twice by linking it to something else, like the negotiations on China's accession to the WTO.

MFN is our standard trading status, and it is granted to all but seven rogue states.

It is time to put an end to this destructive debate year after year. I support making MFN for China permanent.

HONG KONG

In the short run, the transition of Hong Kong is seen by some as a bellwether for China's willingness to act as a responsible great power.

It is key and critical that "one country, two systems" be carried out. The world is clearly watching to see whether in fact it is possible to have within China an autonomous region that charts its own domestic policy.

The Sino-British Joint Declaration and the Basic Law provide the foundation for the transfer, and for the future governance and economic life of Hong Kong.

I am troubled by the legislation submitted last week to the National People's Congress that would undo the Hong Kong bill of rights. Lu Ping, the Chinese official in charge of the Hong Kong transition, told me directly in Beijing in November that the question of public protest and assembly was a matter for the Hong Kong Special Administrative Region (SAR), and if SAR law permitted public expressions of dissent, China would have no objection.

If the central government of China reverses Hong Kong's Bill of Rights, and other

civil liberties, it would be a blow to the credibility of "one country, two systems."

Additionally, I would hope that the provisional legislature meeting this week in Shenzhen is sensitive to the pledge of domestic autonomy for Hong Kong.

I strongly agree with Secretary Albright when she said that the way events play out in Hong Kong will have an important effect on the overall U.S.-China relationship.

CONCLUSION

With this new Congress, and an Administration now seasoned in its second term, we now have the opportunity to move beyond some of the events that have soured Sino-American relations in the past several years.

President Clinton and Secretary Albright must immerse themselves fully in the details of this most delicate and critical of American relations.

In the final analysis, the goal of American policy must be to encourage China toward a full and active relationship with the West and to work together toward a China that is able to take its role as a stable leader of Asia and a guarantor of peace and security in the world.

## WELFARE REFORM

Mrs. FEINSTEIN. Mr. President, we begin the 105th Congress with a sober recognition of the fact that the Federal Government cannot solve all problems. Anyone who questions this premise need only look at painful choices that must be made in order to balance the Federal budget, our first and most difficult task this session.

Having said that, the clearest message, I think, sent to us this past November was that the people of America want Republicans and Democrats to work together to solve real problems. I have been very concerned and I might even say dismayed by statements made by Members of this body and the House, that under no circumstances will there be any changes, no matter how meritorious, no matter how necessary, to the welfare bill which passed last year.

Mr. President, when this body debated and approved the historic welfare reform bill last year, I outlined to my colleagues what I saw as some of the major flaws in the drafting of that bill, and as a result, the impact that this legislation will have on the largest State in the Union—California. I want to take an opportunity this afternoon to update those comments.

The impact of this bill on California is huge. At this stage, it really is not fully known or even understood. Some estimate that California will absorb about $17 billion of the $55 billion saved by this bill. That is a body blow to our safety net. It could have a catastrophic impact both financially and in terms of human lives. I voted, because of this, against that welfare bill.

I am not alone in my concerns. Even the Republican Governors, many of them poster-children for the reform effort, are looking at the fine print now and saying, "How is my State going to pay for these costs? How are we going to provide the necessary care? How are we going to meet these requirements without turning people out on the streets?"—for some, in large numbers. Even the Republican Governors are asking for changes.

A headline in the Washington Post 2 days ago said it pretty clearly: "After getting responsibility for welfare, States may pass it down," something that I, as a county supervisor and a mayor for some 18 years, recognize that it is exactly the way it goes. The buck usually stops with the lowest rung of a government. That is just what is going to happen with this bill. In California, a proposition 13 State, there is no way for local governments to raise their taxes or their revenue potential to deal with the problem.

In the months since the passage of the welfare bill, I directed my staff to examine how this bill would impact California counties. To date, my staff has met with the welfare directors of 22 out of California's 58 counties. Their pleas were nearly universal. I will share them with you. The work requirements, they say, as currently outlined in the bill will most probably not be attainable even under the most optimistic of circumstances. The child care funds in the bill for California are not enough to satisfy the requirements of the bill. The legal immigrant provisions denying food stamps and SSI, particularly to the elderly, the sick, and the disabled, will have a devastating impact on county general assistance programs. The biggest impact will be on the largest county in the State, Los Angeles County. And the counties tell me they have no computer ability to track and monitor recipients under the new rules. How do they comply?

Some of the changes asked for by these counties are technical in nature, such as increasing the time permitted for job search to be more realistic for areas where the average search even for nonwelfare recipients is twice as long as that permitted under the bill. Other changes are more fundamental, such as restoring some assistance to the elderly and disabled legal immigrants. I know President Clinton shares many of these concerns, and will propose a number of changes in his budget soon to be released.

I hope the door is not closed to at least looking at what the facts are. I believe it would really be unconscionable, and in a sense, the height of irresponsibility, to arbitrarily say we will not look at any problem or any misdrafting in that bill. I will point out one area in my remarks later where I think it is simply a case of misdrafting.

Let me speak for a moment about legal immigrants. There are 500,000 elderly and disabled noncitizens nationwide who will lose SSI by August 22, 1997. Of these legal immigrants 205,000 are in California—more than 40 percent. That is a very real problem. Many of these individuals are seriously ill and completely destitute, with no family capable of supporting them. In Los Angeles County alone, there are 93,000 such people, and the ultimate transfer to the county will be in the hundreds of millions of dollars. When they lose their benefits they will turn to the counties.

Just last week, California's State legislative analyst's office estimated the ban on SSI and food stamps will cost California $5.8 billion over 6 years. Now, either this is a massive cost-shift or the homeless in America and in California are going to be greatly adding to their numbers. In Los Angeles County alone the nonmedical costs of supporting elderly and disabled legal immigrants could top $236 million annually.

San Francisco also estimates that 20,000 legal noncitizens may turn to the county's general assistance program, at a total cost of up to $74 million annually.

Let me give an actual example from my hometown legal immigrants. My San Francisco staff met with a 73-year-old legal immigrant on SSI. She was welcomed to this county from Vietnam in 1980. She was a refugee from communism with no family in the United States. She speaks no English and she is suffering from kidney failure. She requires dialysis three times a week. Under this new law, this 73-year-old woman will lose SSI, her only source of support. Her well-being will become the responsibility, somehow, some way, of the county.

During the welfare debate I proposed an amendment to make this section of the bill prospective. I understand the majority's concern that the legal immigrants' use of SSI was increasing at a higher ratio than U.S. citizens' use of SSI. I understand wanting to slow that number down. The way to do it is to say that in the future, everyone coming to this country following the date of enactment, which was August 22 last year, know that when you come to the United States of America as a legal immigrant, you are not eligible for SSI. For the people here before that time, what I propose is that there be an amendment to the bill that would say SSI could be continued for those who have no other verifiable source of support. These are the elderly, they are monolingual, they are destitute, and many of them are ill.

Let me speak for a moment, Mr. President, about the work requirements of the bill, because counties throughout California are really concerned.

Under the new welfare law, 25 percent of single-parent families on welfare and 75 percent of two-parent families on

welfare must be engaged in work activities this year. By 2002, the requirements rise to 50 percent of single-parent families and 90 percent of two-parent families.

California's economy is recovering, but our unemployment rate is still 1½ points above the national rate. It is 6.8 percent. The national rate is 5.4 percent. So some 1 million Californians are still on unemployment.

Let me give you some examples of how unrealistic the work requirements of the welfare bill are on certain counties in California.

In Tulare County, the heart of the great Central Valley, the heart of the area that has the largest agriculture producers in the United States, the unemployment rate is 16.3 percent, more than 10 percentage points above the Nation, and one-third of the county is on public assistance—one-third of the county. There are no jobs for people.

In Merced County—again in the Central Valley—unemployment is even higher at 16.8 percent. Thirty-five percent of the population there receives some type of public assistance.

Here are others: Imperial County, 27 percent unemployment; Madera, 15.9; Monterey, 10.6 percent; Stanislaus County, 17.3 percent; and Sonoma County, 14 percent.

And these are not small population areas. In some of the cases, the population of these counties is actually more than the population of some of the States. These are larger areas.

With 2.7 million families in California on welfare, counties fear that the work requirement, as defined in the new welfare law, simply is not realistic for the State to be able to meet.

California is simply not creating jobs fast enough, and the kinds of jobs that the State is creating are high-technology, biotech, highly skilled jobs, and jobs in the import-export business; jobs that relate to Asia; jobs that have a level of educational requirement that can produce a high skill level.

In Riverside County in southern California, their GAIN Program, which is their welfare-to-work program, is the most successful program of its kind in the Nation. It is 12 years old. It has been the model for other programs all throughout the United States. Yet, in that time, only 14 percent of single-parent families currently meet the work requirement as set under welfare reform. And only 15 percent of two-parent families meet the work requirement. That is after 12 years of trying. If Riverside County can't meet the requirements, how many counties and States nationwide will actually be able to do so?

That is why I urge that the President and Members of Congress allocate some new funds—countercyclical moneys—that would apply particularly in counties where the unemployment rate is at a certain amount. You might want to make it over 1 percentage point from the national average, particularly in areas where there is a high welfare load, which gives testament to the fact that you can't produce jobs in that county.

I feel that Congress should amend the welfare law in significant ways to make it easier for States to meet the work requirements. And I would like to suggest some of them.

Doubling the time allowed for job search activities from 6 weeks to 12 weeks. That is what they say it actually takes and where there is success.

Expand the welfare law's definition of "work" to include 2 years of vocational education instead of 1. That is what they say it requires to be employable.

Include people who—this is a glitch, I think, in the drafting of the bill and one of the reasons that I am so concerned that the announcement has been made that even technical changes will not be made to the bill. The way the bill is drafted, it does not include people who leave welfare for work and those who are immediately placed in a given month as part of the State's total number of people moving from welfare to work. So, In other words, the way the bill is drafted, you don't get credit for the people that month you place in jobs. I think that this is a technical glitch. I think it is a drafting error. I think it is easy to correct. But if we have this policy of nothing no matter whenever it is not going to get corrected.

I would suggest creating a countercyclical funding program for the next 6 years, and I suggest targeting counties with high unemployment and high welfare caseloads.

Child care funding increases: Under the new welfare law, the money is insufficient to accommodate the increasing demands. Currently, my State subsidizes child care for 205,000 low-income children. But there are 1.8 million children on welfare in California—1.8 million. The State currently only has funds to subsidize 205,000.

In order to accommodate the increases in the work requirements which are required by this bill from 25 percent in 1997 to 50 percent in 2002 for an individual recipient, I would propose adding an additional $1.43 billion in child care funding over the next 6 years.

I would also propose exempting parents with children under the age of 12, instead of 6, from the work requirement if they cannot find child care.

This bill—mark my words—will be known as the "latchkey mandate bill" if people can't find work. And there is no reason for any child in elementary school be left home alone without any adult supervision.

Let me speak for just a moment on the reporting requirements.

When Federal welfare reform was enacted, little attention was paid to the 15 new reporting requirements that the law imposes on the States—everything from welfare recipients' race and citizenship status, to other Federal benefits they receive, to unemployment status and earnings.

California, like many other States, has no computer system in place to track and report all of this data. And without effective tracking and reporting, the Nation's largest State has no hope of enforcing the time limit and preventing welfare fraud. Contra Costa County's welfare director said that his county's ability to meet the reporting requirements of the bill is "literally zip." This is a big county.

I think that the welfare law's reporting requirements are important, and I do not advocate relaxing them. But I do believe that the counties are going to require additional support in the form of computer assistance that is greater than that which is provided in the bill today, and that we ought not to be so fixed that we cannot take a look at it.

I make these comments at this time in the hope that someone might read them, or even see them, or take notice of them, and that this statement that there will be no amendments to this bill can perhaps be changed to "Well, we will carefully consider amendments."

I thank the Chair. I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. I thank the Chair.

(The remarks of Ms. MOSELEY-BRAUN pertaining to the introduction of S. 235 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. MOSELEY-BRAUN. I thank the Chair.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Are we in morning business?

The PRESIDING OFFICER. Yes, we are.

(The remarks of Mr. GREGG pertaining to the introduction of S. 252 are

located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(Mr. FRIST assumed the Chair.)

## THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. HATCH. Mr. President, I was pleased that the Senate Judiciary Committee reported out today, I think a little bit before 2 o'clock, the balanced budget constitutional amendment 13 to 5.

I want to personally express my appreciation to everybody on that committee for the cooperation that we had and for the effective debate that we had in getting that amendment out today. This will enable us to bring it up next week, if the leader so chooses. And I believe he does wish to bring the balanced budget amendment up next Wednesday. We will have the report filed by Monday. It is being circulated this afternoon. The minority will have 3 days to complete their remarks, or their position on the report, and then hopefully we will be in this battle next Wednesday. And I hope that we can have as much cooperation during the battle on the floor as we did in committee.

It is a tough issue, and there are people on all sides of it. We do have to fight it out the best we can here on the floor.

## JUDICIAL ACTIVISM

Mr. HATCH. Mr. President, I rise today to speak on a subject which I have frequently addressed in the past, one that is extremely important to me and I think to every Member of this body—in fact, to everybody in this country: judicial activism.

We are witnessing today a rising tide of concern, shared not just by my Republican colleagues and myself, but indeed by an ever-growing segment of the public at large, about judicial activism and the prospect of filling the courts with more activists over the next 4 years. Today, when we talk about activists, we are talking about people who are substituting their own personal preferences for what the law really is—those who choose as unelected judges appointed for life to make laws from the bench and to usurp the powers of the legislative and executive branches of this Government. They are not elected to make the laws, but are appointed to interpret the laws.

Today, I would like to point out an especially egregious abuse of judicial power about which I have just learned. Judge Gladys Kessler, a Clinton appointee to the District Court for the District of Columbia—that is the U.S. District Court for the District of Columbia—took the truly extraordinary step, and as far as I know, a step which is virtually unprecedented in our Federal judicial system, and actually issued an order to show cause to three sitting U.S. Fourth Circuit judges—Fourth Circuit Court of Appeals judges, judges that are above her in the Federal system: Judges Karen Williams, Frances Murnaghan, and senior Judge Butzner. Judge Kessler in effect is seeking to force those appellate judges to come before her, a U.S. district court judge, and justify a decision that they recently handed down. Judge Kessler's order was personally served on Judge Williams' law clerk just yesterday. Let me tell you about this shocking order, dated January 3, 1997, and issued in Civil Action No. 96-2875-GK.

In 1972, one Restoney Robinson pled guilty in North Carolina State court to first-degree murder.

He was sentenced to life in prison, and he has since been imprisoned in North Carolina—which is located within the Fourth Circuit Court of Appeals' jurisdiction. After losing all of his appeals in the State courts, this convicted murderer, Mr. Robinson, has apparently been peppering the Federal district court for the middle district of North Carolina with frivolous petitions and, appealing the denials of those petitions to the higher court, the Fourth Circuit Court of Appeals. I understand that Mr. Robinson has brought more than 80 such actions.

This past October, a panel of fourth circuit judges, comprised of Judges Williams and Murnaghan and Senior Judge Butzner, denied Robinson's most recent frivolous appeal. In what can only be described as a truly bizarre, indeed lawless, action, Judge Kessler not only entertained the habeas corpus petition from Mr. Robinson, a petition over which she had absolutely no jurisdiction whatsoever, since Mr. Robinson is imprisoned in North Carolina, but had the gall to issue an order to those fourth circuit judges—requiring them within 30 days to come before her and explain to her, and to Mr. Robinson, the convicted murderer, why he should not be released from prison.

Indeed, I am told that just yesterday the U.S. marshals in Orangeburg, SC, personally served this order on Judge Williams' law clerk. I have a copy of the order right here, and I ask unanimous consent that it be printed in the RECORD.

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

United States District Court for the District of Columbia

Restoney Robinson, Petitioner vs. Murnaghan and Williams, Respondent(s)

Civil Action No. 96-287

ORDER DIRECTING RESPONDENT TO SHOW CAUSE

It is this 3rd day of January, 1997,

ORDERED that the respondent(s), by counsel, shall within 30 days of service of a copy of this Order and the Petition herein file with the Court and serve on petitioner a statement showing why the Writ of Habeas Corpus should not issue.

The Clerk of Court is directed to furnish a copy of this Order to the United States Marshal for the purpose of making service on the respondent(s) and the U.S. Attorney's Office.

GLADYS KESSLER,
*United States District Judge.*

Mr. HATCH. I have been critical of the activism of many of President Clinton's judges, and let me tell you I have read many an activist decision in the last few years, but I have never ever seen, nor heard of, a district court judge requiring circuit court of appeals judges to justify their decision, let alone circuit court of appeals judges from an altogether different circuit. In fact, we have consulted with a number of Federal court scholars who have told the committee that to their knowledge such an action is unprecedented. I should hope so.

In short, Judge Kessler's order can only be explained as a blatant abuse of judicial authority and disregard for the basic structure of our Federal courts, or perhaps at the very least a gross oversight. But in any event, it is confounding and it is dumbfounding. That Judge Kessler apparently believes she somehow has the power to review fourth circuit judges' opinions is, quite frankly, nothing short of appalling and represents the worst short of judicial hubris.

Perhaps Judge Kessler does not appreciate the gravity of her actions or perhaps she is trying to make a statement. Either way, however, her order is very disturbing because it represents either a fundamental disregard for, or ignorance of, the most basic limits on judicial power.

Mr. President, when Republicans point out the activism of Clinton nominees, we are accused of using selective criteria. But as Clinton judges issue more and more activist decisions, it is becoming clear that a great number of them are—by any criterion—activist judges.

Now, I have asked that the show cause order be printed in the RECORD. I hope people will read that. It is an astounding document. I do not know how anybody, any judge sitting for the district court, could have issued that kind of order. Nevertheless, it is just evidence of some of the things we have been going through in this country.

Mr. D'AMATO. Will the Senator from Utah yield for a question?

Mr. HATCH. I am happy to yield.

Mr. D'AMATO. First, let me, if I might, say that I commend the Senator for taking the time to bring to the attention of the Congress and of the Senate such a glaring, incredible abuse of judicial authority. It is obvious that that is the case. But let me ask—I am confused as to how it is that the district court judge here in Washington would assert jurisdiction. What was her jurisdiction?

Mr. HATCH. There is none. It is absolutely astounding. Here is a Federal district judge, trial court judge in the District of Columbia, who has absolutely no connection to the Fourth Circuit Court of Appeals, telling appellate judges that they must come before her and explain why this murderer's frivolous appeal was denied.

Mr. D'AMATO. Was the crime committed here in DC?

Mr. HATCH. No. If I understand it, the crime was in North Carolina.

Mr. D'AMATO. So if the crime was in North Carolina, the prisoner is in the Carolinas, the question is total lack of jurisdiction. So the thing that becomes shocking is what is to prevent this judge from issuing or entertaining a case, let us say, from Utah where a Utah judge and court had ruled; she is claiming that she could ask that judge to come here and to explain to her why the judge made that decision.

Mr. HATCH. Or from New York. If we can have judges, district court judges, trial court judges in the District of Columbia issue an order to appellate judges in the Fourth Circuit Court of Appeals, then the structure and rationality of our Federal judicial system would be thrown into disarray.

Mr. D'AMATO. Has the Justice Department involved itself in this matter?

Mr. HATCH. I do not know that they know about it, but they certainly are going to know about it after we finish here today, because it is unbelievable.

Mr. D'AMATO. Is it the intent then of the Senator to bring this to the attention of the Justice Department and ask them, would it not be correct, to seek an order from a higher court right here to quash this? This is incredible.

Mr. HATCH. We intend to let the Justice Department know, but, more importantly, I think, I am serving notice around here that we are not going to continue to sit back and tolerate these activist judges. Nobody has been more fair to the Clinton judicial nominations than I have. But many of these nominees have come in here and said we are not going to be activist judges; we are not going to usurp the powers of the executive and legislative branches of Government; we are going to do what judges should do, and that is interpret the laws that are made by those who are elected. All of them mouth that kind of language, but when it comes right down to it, a significant number of them are, one on the bench, engaging in patently activist judging and usurping powers that they do not have.

So I am just serving notice that we are on to the games these nominees are playing, and do not intend to let this game go on. We are going to do what it takes to weed out those nominees who pay lip service to judicial restraint, but then think they can do anything they want to once they don their robes.

There are limitations to the judiciary. The judiciary can preserve itself and keep the high opinion of the American people by not acting as activists, by not usurping the powers of the other two separated branches of Government, and by living within the limits of the third branch.

I do not care whether activism comes from the right or whether it comes from the left. It is wrong, and I have never seen a more flagrant case of something that is wrong than this case. That is why I wanted to bring it to the attention of the Senate and also serve notice that we are going to treat the judgeship nominees over the next 4 years with the utmost diligence and scrutiny.

We appoint Federal judges for a lifetime, and accordingly expect them to live up to the high calling of the judiciary; to appreciate the inherent limits on judicial power, and not to substitute their own policy preferences for that which the law requires.

I hope that this sends a message to everybody, and I am serious about it. As one who has taken a lot of abuse from both sides on judges—including my own Republican colleagues—I am serving notice that we do not intend to allow this rising tide of judicial activism to continue. The integrity of our judiciary, and our very right to self-government is at stake.

I thank my colleague. I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I thank the chairman of the Judiciary Committee, Senator HATCH, for bringing to the attention of the Senate and to the Nation as a whole, I think, a very serious situation. Because this portends the kind of thing that may take place, I think notice has to be served by those within the court itself.

Clearly, this case goes well beyond the realm of someone having a difference of legal opinion. The question of jurisdiction alone is a frightening one and how someone could reach well beyond and entertain a matter—are we going to say any Federal judge in any Federal jurisdiction can review matters that do not legally come before them or within their purview or power?

(The remarks of Mr. D'AMATO pertaining to the introduction of S. 249 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. D'AMATO. I yield the floor and I thank the Chair.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent that I be added as a cosponsor of Senator D'AMATO's legislation.

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

Mr. FORD. Mr. President, how much time am I allotted?

The PRESIDING OFFICER. Ten minutes.

Mr. FORD. I will not take that long.

(The remarks of Mr. FORD pertaining to the introduction of S. 250 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

## RULES OF PROCEDURE FOR THE COMMITTEE ON ARMED SERVICES

Mr. THURMOND. Mr. President, today I am reporting to the Senate the rules of procedure for the Committee on Armed Services as provided for in rule 26.2 of the Standing Rules of the Senate. These rules were unanimously adopted by the committee today, January 30, 1997, and I ask unanimous consent that they be printed in the RECORD.

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

### ARMED SERVICES COMMITTEE RULES OF PROCEDURE

(Adopted January 30, 1997)

1. *Regular Meeting Day.* The Committee shall meet at least once a month when Congress is in session. The regular meeting days of the Committee shall be Tuesday and Thursday, unless the Chairman directs otherwise.

2. *Additional Meetings.* The Chairman may call such additional meetings as he deems necessary.

3. *Special Meetings.* Special meetings of the Committee may be called by a majority of the members of the Committee in accordance with paragraph 3 of Rule XXVI of the Standing Rules of the Senate.

4. *Open Meetings.* Each meeting of the Committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee or a subcommittee thereof on the same subject for a period of no more than fourteen (14) calendar days may be closed to the public on a motion made and seconded to go into close session to discuss only whether the matters enumerated below in clauses (a) through (f) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with a crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity or any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense

that is required to be kept secret in the interests of effective law enforcement;

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(f) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

5. *Presiding Officer.* The Chairman shall preside at all meetings and hearings of the committee except that in his absence the ranking majority member present at the meeting or hearing shall preside unless by majority vote the Committee provides otherwise.

6. *Quorum.*

(a) A majority of the members of the Committee are required to be actually present to report a matter or measure from the Committee. (See Standing Rules of the Senate 26.7(a)(1)).

(b) Except as provided in subsections (a) and (c), and other than for the conduct of hearings, six members of the Committee shall constitute a quorum for the transaction of such business as may be considered by the Committee.

(c) Three members of the Committee, one of whom shall be a member of the minority party, shall constitute a quorum for the purpose of taking sworn testimony, unless otherwise ordered by a majority of the full Committee.

(d) Proxy votes may not be considered for the purpose of establishing a quorum.

7. *Proxy Voting.* Proxy voting shall be allowed on all measures and matters before the Committee. The vote by proxy of any member of the Committee may be counted for the purpose of reporting any measure or matter to the Senate if the absent member casting such vote has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. Proxy must be given in writing.

8. *Announcement of Votes.* The results of all roll call votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the committee report, unless previously announced by the Committee. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee who was present at such meeting. The chairman may hold open a roll call vote on any measure or matter which is before the Committee until no later than midnight of the day on which the Committee votes on such measure or matter.

9. *Subpoenas.* Subpoenas for attendance of witnesses and for the production of memoranda, documents, records, and the like may be issued by the Chairman or any other member designated by him, but only when authorized by a majority of the members of the Committee. The Subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced.

10. *Hearings.*

(a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee, or any subcommittee thereof, at least 1 week in advance of such hearing, unless the Committee or subcommittee determines that good cause exists for beginning such hearings at an earlier time.

(b) Hearings may be initiated only by the specified authorization of the Committee or subcommittee.

(c) Hearings shall be held only in the District of Columbia unless specifically authorized to be held elsewhere by a majority vote of the Committee or subcommittee conducting such hearings.

(d) Witnesses appearing before the Committee shall file with the clerk of the Committee a written statement of their proposed testimony prior to the hearing at which they are to appear unless the chairman and the ranking minority member determine that there is good cause not to file such a statement. Witnesses testifying on behalf of the Administration shall furnish an additional 50 copies of their statement to the Committee. All statements must be received by the Committee at least 48 hours (not including weekends or holidays) before the hearing.

(e) Confidential testimony taken or confidential material presented in a closed hearing of the Committee or subcommittee or any report of the proceedings of such hearing shall not be made public in whole or in part or by way of summary unless authorized by a majority vote of the Committee or subcommittee.

(f) Any witness summoned to give testimony or evidence at a public or closed hearing of the Committee or subcommittee may be accompanied by counsel of his own choosing who shall be permitted at all times during such hearing to advise such witness of his legal rights.

(g) Witnesses providing unsworn testimony to the Committee may be given a transcript of such testimony for the purpose of making minor grammatical corrections. Such witnesses will not, however, be permitted to alter the substance of their testimony. Any question involving such corrections shall be decided by the Chairman.

11. *Nominations.* Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least seven (7) days before being voted on by the Committee. Each member of the Committee shall be furnished a copy of all nominations referred to the Committee.

12. *Real Property Transactions.* Each member of the Committee shall be furnished with a copy of the proposals of the Secretaries of the Army, Navy, and Air Force, submitted pursuant to 10 U.S.C. 2662 and with a copy of the proposals of the Director of the Federal Emergency Management Agency, submitted pursuant to 50 U.S.C. App. 2285, regarding the proposed acquisition or disposition of property of an estimated price or rental of more than $50,000. Any member of the Committee objecting to or requesting information on a proposed acquisition or disposal shall communicate his objection or request to the Chairman of the Committee within thirty (30) days from the date of submission.

13. *Legislative Calendar.*

(a) The clerk of the Committee shall keep a printed calendar for the information of each committee member showing the bills introduced and referred to the Committee and the status of such bills. Such calendar shall be revised from time to time to show pertinent changes in such bills, the current status thereof, and new bills introduced and referred to the Committee. A copy of each new revision shall be furnished to each member of the Committee.

(b) Unless otherwise ordered, measures referred to the Committee shall be referred by the clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

14. Except as otherwise specified herein, the Standing Rules of the Senate shall govern the actions of the Committee. Each subcommittee of the Committee is part of the Committee, and is therefore subject to the Committee's rules so far as applicable.

15. *Powers and Duties of Subcommittees.* Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it. Subcommittee chairmen shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of full Committee and subcommittee meetings or hearings whenever possible.

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, January 29, the Federal debt stood at $5,319,575,822,990.65.

One year ago, January 29, 1996, the Federal debt stood at $4,987,704,000,000.

Five years ago, January 29, 1992, the Federal debt stood at $3,799,219,000,000.

Ten years ago, January 29, 1987, the Federal debt stood at $2,222,608,000,000.

Fifteen years ago, January 29, 1982, the Federal debt stood at $1,038,379,000,000 which reflects a debt increase of more than $4 trillion ($4,281,196,822,990.65) during the past 15 years.

## TRIBUTE TO PAUL TSONGAS

Mr. LEAHY. Mr. President, I stand here today to pay tribute to Paul Tsongas, one of the most courageous men and of the greatest humanitarians that I have had the honor of serving with in the U.S. Senate.

Paul Tsongas' work for his fellow man did not start nor stop here in Washington. Before he even dreamed of running for elected office, he donated his time to the Peace Corps, serving in Ethiopia and the West Indies.

But whether it was Ethiopia or Washington, DC, Paul Tsongas left his mark wherever he went.

In his hometown of Lowell, MA, one only needs to look at the Lowell National Historical Park to realize what he meant to his fellow citizens of that historical New England town.

He only served in the Senate for one term. But in just his second year, he led the efforts to pass the Alaska Lands Act of 1980 which has been recognized as one of the most important pieces of conservation legislation in history.

When diagnosed with lymphoma, he left the Senate to spend more time with his family. But he did not give in to his cancer. He fought it with the tenacity that those of us who knew him would only come to expect.

After undergoing experimental surgery to beat the cancer, he felt even more compelled to donate his life to helping his fellow citizens. One person he helped was my close friend Bill Gray. Bill, suffering from cancer, was constantly encouraged and cheered by Paul.

As we all remember, his remarkable run for President as an advocate for a balanced budget in 1992 helped shape America's political agenda.

After contributing to the campaign in a losing effort, he co-founded the Concord Coalition to advocate a balanced budget. Since then, the deficit has been cut in half and the Concord Coalition has become one of the most well respected bipartisan organizations in Washington.

Paul Tsongas will be remembered here in Washington and in his hometown of Lowell not only for his work as a legislator but for his work as a father, a husband, and a humanitarian.

My thoughts and prayers go out to his wife Niki, and his daughters Ashley, Katina, and Molly.

## U.S. FOREIGN OIL CONSUMPTION: HERE'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, one troubling aspect of our determining national security is the manner in which the United States has become more and more deeply dependent upon foreign countries to supply the bulk of our energy needs for the American people.

I was holding hearings on this perilous situation a decade ago when I was chairman of the Agriculture Committee; and again this past Congress in my present capacity as chairman of the Senate Foreign Relations Committee.

The administration does acknowledge that this is a national security concern, but, the administration has done precisely nothing about U.S. dependency on foreign oil.

Mr. President, the American Petroleum Institute reports that for the week ending January 24, the U.S. imported 7,840,000 barrels of oil, 945,000 barrels more than the 6,895,000 imported during the same week a year ago.

To put it another way, Americans relied on foreign oil for 54.7 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Which raises the inevitable questions: is anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians would do well to ponder the economic calamity certain to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,840,000 barrels a day.

Mr. President, as I say, I shall continue to report to the Senate—and to the American people—on a regular basis regarding the increasingly dangerous U.S. dependency on foreign oil.

## CPSC CHAIRMAN ANN BROWN BRINGS CONSUMER PRODUCT SAFETY MESSAGE TO NEVADANS

Mr. BRYAN. Mr. President, last month U.S. Consumer Product Safety Commission Chairman, Ann Brown, came to Nevada to deliver her vital safety messages to my constituents in Las Vegas and Reno. Her timely visit, just before the holidays, when many people are preparing their homes for visits by friends and relatives, reminded the citizens of my State of the practical things they can do to keep their homes safe.

In Las Vegas, we visited the home of Ms. Lori Black. Lori and her husband Mike are the parents of eight children. As we toured their home with Lori and her youngest daughter Leslie Mika and oldest daughter Ann, Chairman Brown reviewed the CPSC's baby safety checklist and found that they had done an excellent job of making their home safe for children.

In Reno, we visited the home of Lisa and Scott Anderson and their daughter Lyndsey Sue. There, Chairman Brown was able to point out that their baby crib passed the soda can test. She demonstrated that a soda can is useful to measure the spaces between the slats in a baby's crib. If the soda can cannot go through the slats, then the crib is baby safe.

Chairman Brown also demonstrated the importance of clipping the loop at the end of venetian blind cords. She told us in the past 14 years, 173 children had strangled in the loops of curtain and blind cords, but that as a result of a voluntary agreement she secured from the blind cord industry, manufacturers are now installing safety tassels at the end of their cords. She commended the Andersons for making their home safe for a baby by putting all medicines on an upper shelf far from a baby's curious hands and having no baby clothes with strings or cords.

In both Las Vegas and Reno, the homes contained smoke alarms, but lacked carbon monoxide detectors. Chairman Brown emphasized to both families the necessity of these devices. Every year, about 200 people die from carbon monoxide poisoning, and thousands are treated in hospital emergency rooms. With the installation of CO detectors and annual appliance inspections, these deaths and injuries can be prevented.

I want to commend Chairman Brown for her valuable work promoting consumer product safety in Nevada and across the country. The baby safety program she initiated is a model of the way business and government can work together as partners to advance the public interest.

The Gerber Products Co. underwrote the costs of printing the materials for the baby safety program. This has allowed the CPSC to make the baby safety checklist and other helpful materials available to thousands of people throughout the country.

The Consumer Product Safety Commission is a small agency with a big mission—to keep families safe in their homes and at play. It is also one of the taxpaying public's best bargains in government. CPSC's $42.5 million budget, about 16 cents per capita, helps to attack the $200 billion in annual societal costs and about $30 billion in direct medical costs. Thus, every dollar appropriated to CPSC has the potential to address about $5,000 in societal costs and about $600 in direct medical costs. As one example, the CPSC's work in making sure baby cribs are safe and removing unsafe cribs from the market has reduced crib-related deaths from 200 annually to less than 50 deaths per year. That one project alone saves society nearly $1 billion a year—or almost 25 times the CPSC's current annual budget.

But the CPSC is most concerned with saving lives and reducing injuries and it is working even now on actions to reduce those crib-related deaths to an even lower figure.

I would like to thank Chairman Brown for bringing her lifesaving message to the citizens of Nevada and to commend her for her excellent leadership of the Consumer Product Safety Commission. I urge my colleagues to share the CPSC's baby safety checklist with the new parents and grandparents in their States.

I ask unanimous consent that the baby safety checklist be printed in the RECORD.

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

BABY SAFETY CHECKLIST

BEDROOM

Put your baby to sleep on her back or side in a crib with a firm, flat mattress and no soft bedding underneath her.

Make sure your baby's crib is sturdy and has no loose or missing hardware.

Never place your baby's crib or furniture near window blind or curtain cords.

BATHROOM

Keep medicines and cleaning products in containers with safety caps and locked away from children.

Always check bath water temperature with your wrist or elbow before putting your baby in to bathe.

Never, ever, leave your child alone in the bathtub or near any water.

KITCHEN

Don't leave your baby alone in a highchair; always use all safety straps.

Use your stove's back burners and keep pot handles turned to the back of the stove.

Lock household cleaning products, knives, matches, and plastic bags away from children.

LIVING AREAS

Install smoke detectors on each floor of your home, especially near sleeping areas; change the batteries each year.

Use safety gates to block stairways and safety plugs to cover electrical outlets.

Keep all small objects, including tiny toys and balloons, away from young children.

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

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

The assistant 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 (Mr. ABRAHAM). Without objection, it is so ordered.

Mr. LOTT. Good to see the Senator presiding this afternoon. Shall we begin the closing process, now, Mr. President? Would that be all right?

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

## 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.)

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-29. A petition from a citizen of the State of Mississippi relative to the eastern boundary of the State of Mississippi; to the Committee on Rules and Administration.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations, without amendment:

S. Res. 37. An original resolution authorizing expenditures by the Committee on Foreign Relations.

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

S. Res. 38. An original resolution authorizing expenditures by the Committee on Armed Services.

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. Res. 39. An original resolution authorizing expenditures by the Committee on Governmental Affairs.

By Mr. BOND, from the Committee on Small Business, without amendment:

S. Res. 40. An original resolution authorizing expenditures by the Committee on Small Business.

By Mr. GRASSLEY, from the Special Committee on Aging, without amendment:

S. Res. 41. An original resolution authorizing expenditures by the Special Committee on Aging.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

*To be major general*

Brig. Gen. Maxwell C. Bailey, xx...
Brig. Gen. William J. Dendinger, xxx...
Brig. Gen. Dennis G. Haines, xx...
Brig. Gen. Charles R. Henderson, xx...
Brig. Gen. Charles R. Holland, xx...
Brig. Gen. Silas R. Johnson, Jr., xx...
Brig. Gen. Thomas J. Keck, xx...
Brig. Gen. Rodney P. Kelly, xx...
Brig. Gen. Ronald P. Keys, xx...
Brig. Gen. David R. Love, xx...
Brig. Gen. Earl W. Mabry, II, xx...
Brig. Gen. Richard C. Marr, xx...
Brig. Gen. William F. Moore, xx...
Brig. Gen. Thomas H. Neary, xx...
Brig. Gen. Susan L. Pamerleau, xx...
Brig. Gen. Andrew J. Pelak, Jr., xx...
Brig. Gen. Gerald F. Perryman, Jr., xx...
Brig. Gen. Roger R. Radcliff, xx...
Brig. Gen. Richard H. Roellig, xx...
Brig. Gen. Lansford E. Trapp, Jr., xx...
Brig. Gen. Thomas C. Waskow, xx...
Brig. Gen. Charles J. Wax, xxx...
Brig. Gen. John L. Woodward, Jr., xx...
Brig. Gen. Michael K. Wyrick, xx...

The following-named officer for appointment to the grade of general in the United States Air Force while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be general*

Lt. Gen. Lloyd W. Newton, xx...

The following-named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. James L. Jones, xx...

The following-named Army Competitive Category officer for promotion in the Regular Army of the United States to the grade of major general under the provisions of title 10, U.S.C., sections 611(a) and 624(c):

*To be major general*

Brig. Gen. Larry G. Smith, xx...

The following-named Army Competitive Category officer for promotion in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, U.S.C., sections 611(a) and 624(c):

*To be brigadier general*

Col. Mitchell M. Zais, xx...

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Brig. Gen. Martin R. Steele, xx...

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 18 nomination lists in the Air Force, Army, Marine Corps, and Navy which were printed in full in the RECORD of January 7, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators:

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD January 7, 1997, at the end of the Senate proceedings.)

In the Air Force there are 12 promotions to the grade of lieutenant colonel and below (list begins with Samuel R. Bakalian, Jr.) (Reference No. 43)

In the Army there are 5 promotions to the grade of major (list begins with Robert J. Metz) (Reference No. 44)

In the Army there are 16 promotions to the grade of colonel (list begins with Owen H. Black) (reference No. 45)

In the Army there is 1 promotion to the grade of major (Randel D. Matney) (Reference No. 46)

In the Army there are 6 promotions to the grade of colonel and below (list begins with Ronald P. Turnicky) (Reference No. 47)

In the Army there are 2 promotions to the grade of lieutenant colonel (list begins with John E. Rueth) (Reference No. 48)

In the Army there is 1 appointment to the grade of colonel (Phillip J. Todd) (Reference No. 49)

In the Army there is 1 promotion to the grade of lieutenant colonel (Emmanuel M. Chiaparas) (Reference No. 50)

In the Army there are 5 appointments to the grade of lieutenant colonel and below (list begins with Benje H. Boedeker) (Reference No. 51)

In the Army there is 1 appointment to the grade of major (Rupert H. Peete) (Reference No. 52)

In the Army there are 3 appointments to the grade of lieutenant colonel and below (list begins with 4673X) (Reference No. 53)

In the Army there are 29 promotions to the grade of lieutenant colonel (list begins with Mark S. Ackerman) (Reference No. 54)

In the Marine Corps there is 1 promotion to the grade of lieutenant colonel (James W. Brown) (Reference No. 56)

In the Marine Corps there is 1 promotion to the grade of colonel (Chris J. Gunther) (Reference No. 57)

In the Marine Corps there is 1 promotion to the grade of major (Douglas S. Kurth) (Reference No. 58)

In the Marine Corps there are 3 appointments to the grade of lieutenant colonel (list begins with Randall N. Miller) (Reference No. 59)

In the Naval Reserve there are 3 appointments to the grade of captain (list begins with Gary D. Bumgarner) (Reference No. 61)

In the Navy there are 471 appointments to the grade of captain and below (list begins with Marcial B. Dumlao) (Reference No. 66)

By Mr. HELMS, from the Committee on Foreign Relations:

Karl Frederick Inderfurth, of North Carolina, to be an Alternate Representative of the United States of America to the 51st Session of the General Assembly of the United Nations.

Madeleine Korbel Albright, of the District of Columbia, to be a Representative of the

United States of America to the 51st Session of the General Assembly of the United Nations.

Victor Marrero, of New York, to be an Alternate Representative of the United States of America to the 51st Session of the General Assembly of the United Nations.

John Stern Wolf, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as U.S. Coordinator for Asia Pacific Economic Cooperation (APEC).

Edward William Gnehm, Jr., of Georgia, to be a Representative of the United States of America to the 51st Session of the General Assembly of the United Nations.

John Francis Maisto, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador extraordinary and Plenipotentiary of the United States of America to the Republic of Venezuela.

Nominee: John F. Maisto.

Post: U.S. Ambassador to Venezuela.

Contributions, amount, date, and donee:

1. Self: John F. Maisto, none.

2. Spouse: Maria Consuelo G. Maisto, none.

3. Children and spouses names: John Joseph Maisto/Karen Nelson, none; Maria Consuelo Maisto Lynch, none; Edward J. Lynch, none; Maria Cristina Maisto, none.

4. Parents names: John Maisto (deceased), none; Mary P. Maisto.

5. Grandparents names: Elpedio Maisto (deceased), none; Luisa Maisto (deceased), none.

6. Brothers and spouses names: Albert L. Maisto, none; Mary Jean Mills Maisto, none.

7. Sisters and spouses names: none.

Dennis K. Hays, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Suriname.

Nominee: Dennis K. Hays.

Post: Suriname.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

*Contributions, amount, date, and donee:*

1. Self: none.

2. Spouse: none.

3. Children and spouses names: none.

4. Parents names—Ronald and Jane Hays: $50 per year, Richard Matsuura (D–Hawaii); $25 per year, Gene Ward (R–Hawaii); $25 per year, Tom Okamura (D–Hawaii); $1,000 1996, 1995, Orson Swindle (R–Hawaii); $100 per year Republican National Committee.

5. Grandparents names: none.

6. Brothers and spouses names: none.

7. Sisters and spouses names: none.

Arma Jane Karaer, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papua New Guinea, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands, and as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Vanuatu.

Nominee: Arma Jane Karaer.

Post: Port Moresby, Papua New Guinea.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: Arma Jane Karaer, none.

2. Spouse: Yasar Karaer, none.

3. Children and spouses names: Alexandra Karaer, none; Ceren Karaer, none.

4. Parents: Alexander Szczepanski (father); deceased; Ida Szczepanski (mother), none.

5. Grandparents: Bronislaw Szczepanski, deceased; Caroline Szczepanski, deceased; Irving E. Anderson, deceased; Hedwig L. Anderson, deceased.

6. Brothers and Spouses: Bruce Szczepanski, none; Edith Szczepanski; none. David Szczepanski: $50, 3/95, MN Republican Party; $100, 8/95, Dennis Newinski; $200, 4/96 Dennis Newinski; $50, 7/96, MN Republican Party. Joan Szczepanski, deceased; Michael Szczepanski, none; Nancy Szczepanski, none; Steven Szczepanski, none; Thomas Szczepanski, none; Cynthia Szczepanski, none.

7. Sisters and spouses: none.

Anne W. Patterson, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador.

Nominee: Anne Woods Patterson.

Post: Republic of El Salvador.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: Anne W. Patterson, none.

2. Spouse: David R. Patterson, none.

3. Children and spouses names: Edward C. Patterson (Age 15), none; Andrew W. Patterson (age 9), none.

4. Parents names: John and Carol Woods, none.

5. Grandparents names: None living.

6. Brothers and spouses names: John Davis Woods, Jr., none; Jean Byers Woods, none.

7. Sisters and spouses names: none.

Genta Hawkins Holmes, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, as Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia.

Nominee: Genta Hawkins Holmes.

Post: Australia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: none.

3. Children and spouses names: none.

4. Parents names: deceased.

5. Grandparents names: deceased.

6. Brothers and spouses names: Ronald H. Hawkins, none.

7. Sisters and spouses names: none.

Madeleine May Kunin, of Vermont, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Principality of Liechtenstein.

Nominee: Madeleine May Kunin.

Post: Ambassador to the Principality of Liechtenstein.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, date, donee, amount:

1. Self:

| | |
|---|---|
| 1996: | |
| Clinton/Gore Campaign | $100 |
| Emily's List | 125 |
| Democratic Senate Campaign Committee | 50 |
| 1995: | |
| Clinton/Gore Campaign | 100 |
| Democratic Senate Campaign Committee | 50 |
| Democratic Congressional Campaign Committee | 50 |
| Democratic Congressional Campaign Committee | 50 |
| 1994: | |
| Emily's List | 100 |
| Vermont Democratic Party | 100 |
| 1993: | |
| Howard Dean Campaign for Governor | 50 |
| Democratic Congressional Campaign Committee | 50 |
| Elaine Baxter for Congress | 50 |
| Don Hooper for Senate | 50 |
| Doug Racine for Lt. Governor | 50 |
| 1992: | |
| Vermont Democratic Party | 200 |
| Clinton for President | 100 |
| Carol Mosley Braun | 50 |
| Leahy for Senate | 25 |
| Arnie Arneson for Governor, NH | 100 |
| Howard Dean for Governor | 50 |
| Women's Campaign Fund | 50 |
| Clinton Inaugural Committee | 550 |
| Lyn Yeakel for Senate | 50 |
| Vermont Women's Political Caucus | 50 |
| Barbara Boxer for Senate | 50 |
| Hooper for VT Secretary of State | 50 |
| 1991: | |
| Vermont Democratic Party | 100 |
| Chittenden County Democratic Party | 50 |
| Women's Political Caucus | 50 |

2. Spouse: divorced.

3. Children and spouses names: Peter & Lisa Kunin, none; Julie Kunin, none; Adam Kunin, none; Daniel Kunin, none.

4. Parents names: deceased.

5. Grandparents names: deceased.

6. Brothers and spouses names: Edgar May, $100, 1992, Clinton Campaign; $150, 1993, Doug Racine Campaign.

7. Sisters and spouses names: none.

(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.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably four nomination lists in the Foreign Service which were printed in full in the RECORDS of January 21, and 28, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of January 21 and 28, 1997, at the end of the Senate proceedings.)

The following-named Career Members of the Senior Foreign Service of the Department of State for promotion in the Senior Foreign Service to the classes indicated:

Career Members of the Senior Foreign Service of the United States of America, Class of Career Minister:
John C. Kornblum, of Michigan
Edward S. Walker, Jr., of Maryland

Career Members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:
Marshall P. Adair, of Florida
Jeffrey A. Bader, of Florida
Lawrence Rea Baer, of California
Donald Keith Bandler, of Pennsylvania
James W. Bayuk, of Illinois
Eldon E. Bell, of South Dakota
James D. Bindenagel, of California
Ralph L. Booyce, Jr., of Virginia
Prudence Bushnell, of Virginia
Wendy Jean Chamberlin, of Virginia
Lynwood M. Dent, Jr., of Virginia
C. Lawrence Greenwood, Jr., of Florida
John Randle Hamilton, of Virginia
Howard Franklin Jeter, of South Carolina
Charles Kartman, of Virginia
Kathryn Dee Robinson, of Tennessee
Peter F. Romero, of Florida
Wayne S. Rychak, of Maryland
Earl A. Wayne, of California
R. Susan Wood, of Florida

The following-named Career Members of the Foreign Service for promotion into the Senior Foreign Service, and for appointment as Consular Officers and Secretaries in the Diplomatic Service, as indicated:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:
Warrington E. Brown, of New Jersey
Lawrence E. Butler, of Maine
James Philip Callahan, of Florida
James J. Carragher, of California
John R. Dinger, of Iowa
Ben Floyd Fairfax, of Virginia
Nick Hahn, of California
William Thomas Harris, Jr., of Florida
Ann Kelly Korky, of New Jersey
Richard E.Kramer, of Tennessee
Richard Burdette LeBaron, of Virginia
Antoinette S. Marwitz, of Virginia
Robert John McAnneny, of Connecticut
Edward McKeon, of the District of Columbia
William T. Monroe, of Connecticut
Lauren Moriarty, of Hawaii
Michael C. Mozur, of Virginia
Stephen D. Mull, of Pennsylvania
Michael Eleazar Parmly, of Florida
Jo Ellen Powell, of the District of Columbia
David E. Randolph, of Arizona
Victor Manuel Rocha, of California
Anthony Francis Rock, of New Hampshire
Lawrence George Rossin, of California
John M. Salazar, of New Mexico
Sandra J. Salmon, of Florida
Janet A. Sanderson, of Arizona
Ronald Lewis Schlicher, of Tennessee
Joseph B. Schreiber, of Michigan
Richard Henry Smyth, of California
William A. Stanton, of California
Gregory Michael Suchan, of Ohio
Laurie Tracy, of Virginia
Frank Charles Urbancic, Jr., of Indiana
Harry E. Young, Jr., of Missouri

Career Members of the Senior Foreign Service, Class of Counselor, and Consular Officers and Secretaries in the Diplomatic Service of the United States of America:
John R. Bainbridge, of Maryland
Bernard W. Bies, of South Dakota
Melvin L. Harrison, of Virginia
Lawrence N. Hill, of California
Bernardo Segura-Guron, of Virginia
Mark Stevens, of Florida
Frederick J. Summers, of California
Brooks A. Taylor, of New Hampshire
William L. Young, of Virginia

The following-named Career Member of the Senior Foreign Service of the United States Information Agency for promotion in the Senior Foreign Service to the class indicated:

Career Member of the Senior Foreign Service of the United States of America, Class of Career Minister:
Marilyn McAfee, of Florida.

The following-named persons of the agencies indicated for appointment as Foreign Service Officers of the classes stated, and also for the other appointments indicated herewith:

For appointment as Foreign Service Officer of Class One, Consular Officer and Secretary in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Larry Corbett, of Nevada

For appointment as Foreign Service Officers of Class Two, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF COMMERCE

Hans J. Amrhein, of Virginia

DEPARTMENT OF STATE

Phyllis Marie Powers, of Texas
Michael S. Tulley, of California

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Kimberly J. Delaney, of Virginia
Edith Fayssoux Jones Humphreys, of North Carolina

DEPARTMENT OF STATE

Jemile L. Bertot, of Connecticut

For appointment as Foreign Service Officer of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Alfred B. Anzaldua, of California
David A. Beam, of Pennsylvania
Donald Armin Blome, of Illinois
P.P. Declan Bryne, of Washington
Lauren W. Catipon, of New Jersey
James Patrick DeHart, of Michigan
Joseph DeMaria, of New Jersey
Michael Ralph DeTar, of New York
Rodger Jan Deuerlein, of California
Stephen A. Druzak, of Washington
Mary Eileen Earl, of Virginia
Linda Laurents Eichblatt, of Texas
Jessica Ellis, of Washington
Stephanie Jane Fossan, of Virginia
Christopher Scott Hegadorn, of the District of Columbia
Harry R. Kamian, of California
Marc E. Knapper, of California
Blair L. LaBarge, of Utah
William Scott Laidlaw, of Washington
Kaye-Ann Lee, of Washington
Brian Lieke, of Texas
Bernard Edward Link, of Delaware
Lee MacTaggart, of Washington
Richard T. Reiter, of California
Kai Ryssdal, of Virginia
Norman Thatcher Scharpf, of the District of Columbia
Jennifer Leigh Schools, of Texas
Justin H. Siberell, of California
Anthony Syrett, of Washington
Herbert S. Traub, III, of Florida
Arnoldo Vela, of Texas
J. Richard Walsh, of Alabama
David K. Young, of Florida
Darcy Fyock Zotter, of Vermont

The following-named Members of the Foreign Service of the Department of Commerce and the Department of State to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:
Derek A. Bower, of Virginia
Steven P. Chisholm, of Virginia
Henry J. Hein, Jr., of Virginia
Holly Ann Herman, of Virginia
E. Keith Kirkham, of Maine
Mary Pat Moynihan, of Virginia
John W. Ratkiewicz, of New Jersey

Secretary in the Diplomatic Service of the United States of America:
William B. Clatanoff, Jr., of Virginia

The following-named Career Members of the Foreign Service of the Department of State for promotion in the Senior Foreign Service to the class indicated, effective October 18, 1992:

Career Members of the Senior Foreign Service of the United States of America; Class of Minister-Counselor:
Elizabeth B. Bollmann, of Missouri
Marsha D. von Duerekheim, of California

The following-named Career Members of the Foreign Service of the Department of State, previously promoted in the Senior Foreign Service to the class indicated on October 18, 1992 now to be effective April 7, 1991:

Career Members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:
Joan Ellen Corbett, of Virginia
Judith Rodes Johnson, of Texas
Mary Elizabeth Swope, of Virginia

The following-named Career Member of the Foreign Service of the Department of Sate, previously promoted in the Senior Foreign Service to the class indicated on October 18, 1992, now to be effective October 6, 1991:

Career Member of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:
Sylvia G. Stanfield, of Texas

The following-named Career Member of the Foreign Service of the Department of State, previously promoted in the Senior Foreign Service to the class indicated on November 6, 1988, now effective October 12, 1986:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:
Joan Ellen Corbett, of Virginia
Judith Rodes Johnson, of Texas
Mary Elizabeth Swope, of Virginia

The following-named Career Member of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on November 6, 1988, now effective January 3, 1988:

Career Member of the Senior Foreign Service of the United States of America, Class of Counselor:
Sylvia G. Stanfield, of Texas

The following-named Career Member of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on April 7, 1991, now effective November 19, 1989:

Career Member of the Senior Foreign Service of the United States of America, Class of Counselor:

Virginia Carson Young, of the District of Columbia

The following-named Career Member of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on October 6, 1991, now effective April 7, 1991:

Career Member of the Senior Foreign Service of the United States of America, Class of Counselor:

Judith M. Heiman, of Connecticut

The following-named Career Members of the Foreign Service of the Department of State, previously promoted in the Senior Foreign Service to the class indicated on October 18, 1992, now effective April 7, 1991:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

Judyt Landstein Mandel, of the District of Columbia
Mary C. Pendleton, of Virginia

The following-named Career Members of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on October 18, 1992, now effective October 6, 1991:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

JeanAnne Louis, of Virginia
Sharon Mercurio, of California
Ruth H. van Heuven, of Connecticut
Robin Lane White, of Massachusetts

The following-named persons of the agencies indicated for appointment as Foreign Service Officers of the classes stated, and also for the other appointments indicated herewith: for appointment as Foreign Service Officer of Class One, Consular Officer and Secretary in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Paul Albert Bisek, of Virginia

For appointment as Foreign Service Officer of Class Two, Consular Officer and Secretary in the Diplomatic Service of the United States of America:

Susumo Ken Yamashita, of Maryland

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Susan Kuchinski Brems, of the District of Columbia
Christine M. Bryne, of Virginia
James Eric Schaeffer, of Florida

DEPARTMENT OF COMMERCE

Karla B. King, of Florida
Terry J. Sorgi, of Wisconsin

For appointment as Foreign Service Officers of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

U.S. INFORMATION AGENCY

Tania Bohachevsky Chomiak, of Florida
Linda Joy Hartley, of California
Sharon Hudson-Dean of Pennsylvania
Constance Colding Jones, of Indiana
Steven Louis Pike, of New York
David Michael Reinert, of New Mexico

DEPARTMENT OF STATE

Sarah J. Metzger, of Virginia

For appointment as Foreign Service Officer of Class Four, Consular Officer and Secretary in the Diplomatic Service of the United States of America effective June 28, 1996:

Marc C. Johnson, of the District of Columbia

The following-named Members of the Foreign Service of the Department of Commerce and the Department of State, to be Consular Officers and/or Secretaries in the Diplomatic Service of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Robert L. Adams, of Virginia
Veomayoury Baccam, of Iowa
Douglass R. Benning, of the District of Columbia
Steven A. Bowers, of Virginia
Michael A. Brennan, of Connecticut
Kerry L. Brougham, of California
Andrea Brouilette-Rodriguez, of Minnesota
Paal Cammermeyer, of Maryland
Priscilla Carroll Caskey, of Maryland
Julianne Marie Chesky, of Virginia
Carmela A. Conroy, of Washington
Julie Chung, of California
Edward R. Degges, Jr., of Virginia
Thomas L. Elmore, of Florida
Wayne J. Fahnestock, of Maryland
Denis Barrett Finotti, of Maryland
Kenneth Fraser, of Maryland
Gary R. Giuffrida, of Maryland
Patricia M. Gonzalez, of Texas
David J. Greene, of New York
Raymond Franklin Greene, III, of Maryland
Ronald Allen Gregory, of Tennessee
Deborah Guido-O'Grady, of Virginia
Audrey Louise Hagedorm, of Virginia
Patti Hagopian, of Virginia
Charles P. Harrington, of Virginia
Ronald S. Hiett, of Virginia
Ruth-Ercile Hodges, of New York
Kristina M. Hotchkiss, of Virginia
Andreas O. Jaworski, of Virginia
Ralph M. Jonassen, of New York
Marni Kalupa, of Texas
Jane J. Kang, of California
Sarah E. Kemp, of New York
Frederick J. Kowaleski, of Virginia
Steven W. Krapcho, of Virginia
Gregory R. Lattanze, of Virginia
Charles W. Levesque, of Illinois
Janice O. MacDonald, of Virginia
C. Wakefield Martin, of Texas
Brian I. McCleary, of Virginia
Alan D. Meltzer, of New York
David J. Mico, of Indiana
Christopher S. Misciagno, of Florida
Joseph P. Mullin, Jr., of Virginia
Burke O'Connor, of California
Edward J. Ortiz, of Virginia
Maria Elena Pallick, of Indiana
David D. Potter, of South Dakota
Eric N. Richardson, of Michigan
Heather C. Roach, of Iowa
Taylor Vinson Ruggles, of Virginia
Thomas L. Schmidt, of South Dakota
Jonathan L.A. Shrier, of Florida
James E. Smeltzer, III, of Maryland
Christine L. Smith, of Virginia
Keenan Jabbar Smith, of Pennsylvania
Brian K. Stewart, of Virginia
Christine D. Stuebner, of New York
Stephanie Faye Syptak, of Texas
Erminido Telles, of Virginia
Mark Tesone, of Virginia
Michael Anthony Veasy, of Tennessee
Glenn Stewart Warren, of California
Mark E. Wilson, of Texas
Anthony L. Wong, of Virginia
Gregory M. Wong, of Missouri
Kim Woodward, of Virginia
Martha-Jean Hughes Wynnyczok, of Virginia
Teresa L. Young, of Virginia

Secretary in the Diplomatic Service of the United States of America:

John Weeks, of Virginia

## 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 Ms. MOSELEY-BRAUN (for herself, Mr. ABRAHAM, Mr. D'AMATO, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. DASCHLE, and Mrs. MURRAY):

S. 235. 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; to the Committee on Finance.

By Mr. GRAMS (for himself, Mr. ABRAHAM, Mr. ASHCROFT, Mr. FAIRCLOTH, Mr. HUTCHINSON, Mr. KYL, Mr. MCCAIN, Mr. STEVENS, and Mr. HAGEL):

S. 236. A bill to abolish the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUMPERS:

S. 237. A bill to provide for retail competition among electric energy suppliers for the benefit and protection of consumers, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAMS (for himself and Mr. GRAHAM):

S. 238. A bill to amend title XVIII of the Social Security Act to ensure medicare reimbursement for certain ambulance services, and to improve the efficiency of the emergency medical system, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. JOHNSON, Mr. CONRAD, Mr. DORGAN, Mr. BAUCUS, Mr. HARKIN, and Mr. KERREY):

S. 239. A bill to amend the Internal Revenue Code of 1986 relating to the treatment of livestock sold on account of weather-related conditions; to the Committee on Finance.

By Mr. MCCAIN:

S. 240. A bill to provide for the protection of books and materials of the Library of Congress, and for other purposes; to the Committee on Rules and Administration.

S. 241. 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.

S. 242. A bill to require a 60-vote supermajority in the Senate to pass any bill increasing taxes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. FORD, and Mr. GORTON):

S. 243. A bill to provide for a short term reinstatement of expired Airport and airway trust Fund taxes, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN:

S. 244. A bill to amend the Internal Revenue Code of 1986 to repeal the increase in the tax on social security benefits; to the Committee on Finance.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 245. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges for the judicial district of Maryland; to the Committee on the Judiciary.

By Mr. GREGG:

S. 246. A bill to amend title XVIII of the Social Security Act to provide greater flexibility and choice under the medicare program; to the Committee on Finance.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 247. A bill for the relief of Rose-Marie Barbeau-Quinn; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mr. REID):

S. 248. A bill to establish a Commission on Structural Alternatives for the Federal Courts of Appeals; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Ms. SNOWE, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. MOYNIHAN, Mr. DOMENICI, Mr. FAIRCLOTH, Ms. MOSELEY-BRAUN, Mr. BIDEN, Mr. INOUYE, Mr. MURKOWSKI, Mr. DODD, Mr. KERREY, Mr. HATCH, Mr. GREGG, Mr. SMITH of New Hampshire, and Mr. FORD):

S. 249. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations; to the Committee on Finance.

By Mr. FORD:

S. 250. A bill to designate the United States courthouse located in Paducah, Kentucky, as the "Edward Huggins Johnstone United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. SHELBY (for himself, Mr. GRASSLEY, Mr. COCHRAN, Mr. ROBERTS, Mr. ABRAHAM, and Mr. HUTCHINSON):

S. 251. A bill to amend the Internal Revenue Code of 1986 to allow farmers to income average over 2 years; to the Committee on Finance.

By Mr. GREGG:

S. 252. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gains tax for assets held more than 2 years, to impose a surcharge on short-term capital gains, and for other purposes; to the Committee on Finance.

By Mr. LUGAR:

S. 253. A bill to establish the negotiating objectives and fast track procedures for future trade agreements; to the Committee on Finance.

By Mr. KOHL:

S. 254. A bill to amend part V of title 28, United States Code, to require that the Department of Justice and State Attorneys General are provided notice of a class action certification or settlement, and for other purposes; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 36. A resolution relative to the retirements of Arthur Curran, Donn Larson, and Richard Gibbons; considered and agreed to.

By Mr. HELMS:

S. Res. 37. An original resolution authorizing expenditures by the Committee on Foreign Relations; from the Committee on Foreign Relations; to the Committee on Rules and Administration.

By Mr. THURMOND:

S. Res. 38. An original resolution authorizing expenditures by the Committee on Armed Services; from the Committee on Armed Services; to the Committee on Rules and Administration.

By Mr. THOMPSON:

S. Res. 39. An original resolution authorizing expenditures by the Committee on Governmental Affairs; from the Committee on Governmental Affairs; to the Committee on Rules and Administration.

By Mr. BOND:

S. Res. 40. An original resolution authorizing expenditures by the Committee on Small Business; from the Committee on Small Business; to the Committee on Rules and Administration.

By Mr. GRASSLEY:

S. Res. 41. An original resolution authorizing expenditures by the Special Committee on Aging; from the Special Committee on Aging; to the Committee on Rules and Administration.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MOSELEY-BRAUN (for herself, Mr. ABRAHAM, Mr. D'AMATO, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. DASCHLE and Mrs. MURRAY):

S. 235. 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; to the Committee on Finance.

THE COMMUNITY EMPOWERMENT ACT OF 1997

Ms. MOSELEY-BRAUN. Mr. President, it gives me great pleasure, together with my colleagues, Senators ABRAHAM, D'AMATO, JEFFORDS, LIEBERMAN, MURRAY, and DASCHLE to reintroduce the Community Empowerment Act of 1997. This legislation is designed to create new jobs and spur economic growth by encouraging the cleanup and reuse of contaminated industrial and commercial sites known as Brownfields. This bill also creates 20 new additional empowerment zones and 80 new enterprise communities all across the Nation.

I like to call them environmentally challenged sites. They are sites on which there has been some contamination but not to a level sufficient to reach Superfund status. But they are contaminated nonetheless. They are, on the one hand, excellent locations for industrial and commercial redevelopment because the transportation, more often than not, already exists. The infrastructure, the utilities, and the labor force already exists.

However, these properties are often unattractive to potential redevelopers because of the known, unknown, or perceived contamination that may exist on the property. This factor creates an incentive for companies to locate and develop in greenfields, which are undeveloped areas generally in the suburbs. This urban flight contributes to urban sprawl, taking jobs away from the city.

It also results in the paving off of many of the greenfield areas of our country.

The challenge for all of us is to stop this trend. And one way to do that is by encouraging businesses through the Tax Code to redevelop and to reuse the existing brownfield sites; to reclaim, if you will, sites that have been contaminated which have been used or used up.

At present, if an industrial property owner does environmental damage to their property and then cleans up the site, the owner is allowed to deduct the cost of that cleanup from a single year's earnings. However, in a strange twist of logic, someone who buys an environmentally damaged piece of property and cleans up that property is not allowed to expense these cleanup costs, but instead must capitalize the cost and depreciate the cleanup expense over many years.

The result of this? The result has been an urban landscape littered with vacant or abandoned properties, properties that attract crime and bring down property values in surrounding neighborhoods.

Confronting the brownfields issue can help to address many of the problems that face high unemployment in older communities, including job creation, economic renewal, environmental justice, and environmental improvement. The collective efforts of everyone, particularly the nonprofit community, the private sector, government at all levels, developers, and community groups, are essential to begin the process of returning brownfields property back to productive use and to bring economic growth back to disadvantaged cities and rural areas.

Under the provisions of this legislation, qualifying brownfields will be provided full first-year expensing of environmental cleanup costs under the Federal Tax Code. Full first-year expensing simply means that a tax deduction will be allowed for the cleanup costs in the year that those costs are incurred.

The Community Empowerment Act provides tax incentives that we hope will break through some of the current barriers preventing the private sector from investing in brownfields cleanup projects.

So it provides a carrot, if you will, to the private sector to begin to help not only with the environmental cleanup but also with urban redevelopment. So it becomes a win-win in both regards in that way.

In my own State of Illinois, the brownfields provisions will have a major impact on efforts to help restore neglected and abandoned industrial areas. It will facilitate the cleanup of

some 300 to 500 sites in Illinois, each of which has a remediation cost ranging from $250,000 to $500,000 per site.

The Treasury Department estimates that this act will provide $2 billion in tax incentives that will leverage an additional $10 billion in private investment, returning an estimated 30,000 brownfields across the country to productive use again. The $2 billion investment will be included in the President's balanced budget plan and so it will be paid for.

The Federal assistance that this proposal envisions will be concentrated in neighborhoods with the most severe problems and that are truly in need of such investment. The bill targets four areas.

First, the empowerment zones and enterprise communities across the country.

Second, areas with a poverty rate of 20 percent or more that are near industrial or former industrial sites.

Third, existing EPA brownfields pilot areas. The Environmental Protection Agency has already designated brownfields sites across the country.

Fourth, areas with a population of under 2,000 or more than 75 percent of which is zoned for industrial or commercial use.

So this is not just a big-city solution. This is something that will affect the cities, the suburbs, and the rural areas as well in providing an incentive to reclaim these environmentally challenged areas of our country.

In my hometown, in Chicago, Mayor Daley has taken the initiative to establish a brownfields pilot program which has made public investment leverage substantial private investment dollars. One of these projects is known as the Scott Peterson Meats Co., in Chicago. The site had been tax delinquent for several years when Scott Peterson Meats and the city began to work together. The city conducted an assessment of potential hazards that were identified and which included asbestos-containing materials, lead-based paints, and some 11 underground storage tanks, some of which were filled with tar. The city paid for environmental investigation, cleanup, and building demolition, which totaled some $250,000 in contractor costs. Due to the city's investment, however, the company, Scott Peterson Meats, then turned around and invested an additional $5.2 million in a new smokehouse on its existing property, and it has hired over 100 additional employees to date. So with the win-win of environmental cleanup and urban reclamation we also have job creation coming out of this legislative initiative.

Another example of a successful public-private partnership pulling people together to clean up a brownfields site is the Madison Equipment site located in Illinois. This abandoned industrial building was a neighborhood eyesore. Scavengers had stolen most of the wiring and plumbing, and illegal or what is called midnight dumping of trash and debris was rampant. Madison Equipment needed expansion space, but it feared the environmental liability. However, in 1993, the city of Chicago took the initiative to invest just a little over $3,000 in this project, in this environmental reclamation, this brownfields project, and 1 year later the company, Madison, put in $180,000 of its own to redevelop the building. The critical reason that lenders and investors look at this area now is because the city committed the public investment to spur private redevelopment and investment. When local government demonstrates the confidence to commit public funds, private financial institutions are more likely to follow suit. these types of examples show how a little investment can go a long way and how we can engage the partnership between the public and the private sector in nonbureaucratic ways in order to spur a result that truly is in the public interest.

Chicago's pilot project will successfully return all the pilot sites to productive use for a total of about $850,000 in public money. this pilot project is a perfect example of what this legislation can accomplish on a national level. But in order to make it happen, cooperation is the key. Effective strategies require strong partnerships among government, industry, organized labor, community groups, developers, environmentalists, and financiers, who all realize that when their efforts are aligned, when we work together, progress is made easier.

The second component of this legislation is the establishment of empowerment zones and 80 additional enterprise communities. They will receive a variety of tools for redevelopment from the Government.

First, they receive a package of tax incentives and flexible grants available over a 10-year period.

Second, they receive priority consideration for other Federal empowerment programs.

Third, they receive assistance in removing bureaucratic redtape and regulatory barriers that prevent innovative uses of the Federal assistance that they have received.

This approach recognizes that a top-down, big Government solution does not work in these times and what we have to do is enhance public-private partnerships and the involvement and engagement of all sectors in order to bring about again the public policy result that we are all desirous of seeing.

Economic empowerment can be achieved, but it is best done, I believe, through these public-private partnerships. Economic revitalization in this Nation's most distressed communities is essential to the growth of our entire country. With the concept of team effort, we can rebuild cities by stimulating investments and creating jobs. Environmental protection used in this way can and will be good business. It is also good policy. With this legislation, we will begin the effort to restore economic growth back into our country's industrial centers and rural communities all the while improving our environment.

Again, I wish to thank my colleagues, Senators ABRAHAM, D'AMATO, JEFFORDS, LIEBERMAN, MURRAY, and DASCHLE for their original cosponsorship of this legislation and for making this legislation a truly bipartisan effort. I urge all of my colleagues to join in supporting the quick passage of this legislation.

I ask unanimous consent that the full text of the bill and a section-by-section analysis be printed in the RECORD.

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

S. 235

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AMENDMENT OF 1986 CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**TITLE I—ADDITIONAL EMPOWERMENT ZONES**

**SEC. 101. ADDITIONAL EMPOWERMENT ZONES.**

(a) IN GENERAL.—Paragraph (2) of section 1391(b) (relating to designations of empowerment zones and enterprise communities) is amended—

(1) by striking "9" and inserting "11",

(2) by striking "6" and inserting "8", and

(3) by striking "750,000" and inserting "1,000,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that designations of new empowerment zones made pursuant to such amendments shall be made during the 180-day period beginning on the date of the enactment of this Act.

**TITLE II—NEW EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES**

**SEC. 201. DESIGNATION OF ADDITIONAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.**

(a) IN GENERAL.—Section 1391 (relating to designation procedure for empowerment zones and enterprise communities) is amended by adding at the end the following new subsection:

"(g) ADDITIONAL DESIGNATIONS PERMITTED.—

"(1) IN GENERAL.—In addition to the areas designated under subsection (a)—

"(A) ENTERPRISE COMMUNITIES.—The appropriate Secretaries may designate in the aggregate an additional 80 nominated areas as enterprise communities under this section, subject to the availability of eligible nominated areas. Of that number, not more than 50 may be designated in urban areas and not more than 30 may be designated in rural areas.

"(B) EMPOWERMENT ZONES.—The appropriate Secretaries may designate in the aggregate an additional 20 nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than 15 may be designated in urban areas and not more than 5 may be designated in rural areas.

"(2) PERIOD DESIGNATIONS MAY BE MADE.—A designation may be made under this subsection after the date of the enactment of this subsection and before January 1, 1999.

"(3) MODIFICATIONS TO ELIGIBILITY CRITERIA, ETC.—

"(A) POVERTY RATE REQUIREMENT.—

"(i) IN GENERAL.—A nominated area shall be eligible for designation under this subsection only if the poverty rate for each population census tract within the nominated area is not less than 20 percent and the poverty rate for at least 90 percent of the population census tracts within the nominated area is not less than 25 percent.

"(ii) TREATMENT OF CENSUS TRACTS WITH SMALL POPULATIONS.—A population census tract with a population of less than 2,000 shall be treated as having a poverty rate of not less than 25 percent if—

"(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

"(II) such tract is contiguous to 1 or more other population census tracts which have a poverty rate of not less than 25 percent (determined without regard to this clause).

"(iii) EXCEPTION FOR DEVELOPABLE SITES.—Clause (i) shall not apply to up to 3 noncontiguous parcels in a nominated area which may be developed for commercial or industrial purposes. The aggregate area of noncontiguous parcels to which the preceding sentence applies with respect to any nominated area shall not exceed 1,000 acres (2,000 acres in the case of an empowerment zone).

"(iv) CERTAIN PROVISIONS NOT TO APPLY.—Section 1392(a)(4) (and so much of paragraphs (1) and (2) of section 1392(b) as relate to section 1392(a)(4)) shall not apply to an area nominated for designation under this subsection.

"(v) SPECIAL RULE FOR RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.—The Secretary of Agriculture may designate not more than 1 empowerment zone, and not more than 5 enterprise communities, in rural areas without regard to clause (i) if such areas satisfy emigration criteria specified by the Secretary of Agriculture.

"(B) SIZE LIMITATION.—

"(i) IN GENERAL.—The parcels described in subparagraph (A)(iii) shall not be taken into account in determining whether the requirement of subparagraph (A) or (B) of section 1392(a)(3) is met.

"(ii) SPECIAL RULE FOR RURAL AREAS.—If a population census tract (or equivalent division under section 1392(b)(4)) in a rural area exceeds 1,000 square miles or includes a substantial amount of land owned by the Federal, State, or local government, the nominated area may exclude such excess square mileage or governmentally owned land and the exclusion of that area will not be treated as violating the continuous boundary requirement of section 1392(a)(3)(B).

"(C) AGGREGATE POPULATION LIMITATION.—The aggregate population limitation under the last sentence of subsection (b)(2) shall not apply to a designation under paragraph (1)(B).

"(D) PREVIOUSLY DESIGNATED ENTERPRISE COMMUNITIES MAY BE INCLUDED.—Subsection (e)(5) shall not apply to any enterprise community designated under subsection (a) that is also nominated for designation under this subsection.

"(E) INDIAN RESERVATIONS MAY BE NOMINATED.—

"(i) IN GENERAL.—Section 1393(a)(4) shall not apply to an area nominated for designation under this subsection.

"(ii) SPECIAL RULE.—An area in an Indian reservation shall be treated as nominated by a State and a local government if it is nominated by the reservation governing body (as determined by the Secretary of Interior)."

(b) EMPLOYMENT CREDIT NOT TO APPLY TO NEW EMPOWERMENT ZONES.—Section 1396 (relating to empowerment zone employment credit) is amended by adding at the end the following new subsection:

"(e) CREDIT NOT TO APPLY TO EMPOWERMENT ZONES DESIGNATED UNDER SECTION 1391(g).—This section shall be applied without regard to any empowerment zone designated under section 1391(g)."

(c) INCREASED EXPENSING UNDER SECTION 179 NOT TO APPLY IN DEVELOPABLE SITES.—Section 1397A (relating to increase in expensing under section 179) is amended by adding at the end the following new subsection:

"(c) LIMITATION.—For purposes of this section, qualified zone property shall not include any property substantially all of the use of which is in any parcel described in section 1391(g)(3)(A)(iii)."

(d) CONFORMING AMENDMENTS.—

(1) Subsections (e) and (f) of section 1391 are each amended by striking "subsection (a)" and inserting "this section".

(2) Section 1391(c) is amended by striking "this section" and inserting "subsection (a)".

**SEC. 202. VOLUME CAP NOT TO APPLY TO ENTERPRISE ZONE FACILITY BONDS WITH RESPECT TO NEW EMPOWERMENT ZONES.**

(a) IN GENERAL.—Section 1394 (relating to tax-exempt enterprise zone facility bonds) is amended by adding at the end the following new subsection:

"(f) BONDS FOR EMPOWERMENT ZONES DESIGNATED UNDER SECTION 1391(g).—

"(1) IN GENERAL.—In the case of a new empowerment zone facility bond—

"(A) such bond shall not be treated as a private activity bond for purposes of section 146, and

"(B) subsection (c) of this section shall not apply.

"(2) LIMITATION ON AMOUNT OF BONDS.—

"(A) IN GENERAL.—Paragraph (1) shall apply to a new empowerment zone facility bond only if such bond is designated for purposes of this subsection by the local government which nominated the area to which such bond relates.

"(B) LIMITATION ON BONDS DESIGNATED.—The aggregate face amount of bonds which may be designated under subparagraph (A) with respect to any empowerment zone shall not exceed—

"(i) $60,000,000 if such zone is in a rural area,

"(ii) $130,000,000 if such zone is in an urban area and the zone has a population of less than 100,000, and

"(iii) $230,000,000 if such zone is in an urban area and the zone has a population of at least 100,000.

"(C) SPECIAL RULES.—

"(i) COORDINATION WITH LIMITATION IN SUBSECTION (c).—Bonds to which paragraph (1) applies shall not be taken into account in applying the limitation of subsection (c) to other bonds.

"(ii) CURRENT REFUNDING NOT TAKEN INTO ACCOUNT.—In the case of a refunding (or series of refundings) of a bond designated under this paragraph, the refunding obligation shall be treated as designated under this paragraph (and shall not be taken into account in applying subparagraph (B)) if—

"(I) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(II) the refunded bond is redeemed not later than 90 days after the date of issuance of the refunding bond.

"(3) NEW EMPOWERMENT ZONE FACILITY BOND.—For purposes of this subsection, the term 'new empowerment zone facility bond' means any bond which would be described in subsection (a) if only empowerment zones designated under section 1391(g) were taken into account under sections 1397B and 1397C."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

**SEC. 203. MODIFICATIONS TO ENTERPRISE ZONE FACILITY BOND RULES FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.**

(a) MODIFICATIONS RELATING TO ENTERPRISE ZONE BUSINESS.—Paragraph (3) of section 1394(b) (defining enterprise zone business) is amended to read as follows:

"(3) ENTERPRISE ZONE BUSINESS.—

"(A) IN GENERAL.—Except as modified in this paragraph, the term 'enterprise zone business' has the meaning given such term by section 1397B.

"(B) MODIFICATIONS.—In applying section 1397B for purposes of this section—

"(i) BUSINESSES IN ENTERPRISE COMMUNITIES ELIGIBLE.—References in section 1397B to empowerment zones shall be treated as including references to enterprise communities.

"(ii) WAIVER OF REQUIREMENTS DURING STARTUP PERIOD.—A business shall not fail to be treated as an enterprise zone business during the startup period if—

"(I) as of the beginning of the startup period, it is reasonably expected that such business will be an enterprise zone business (as defined in section 1397B as modified by this paragraph) at the end of such period, and

"(II) such business makes bona fide efforts to be such a business.

"(iii) REDUCED REQUIREMENTS AFTER TESTING PERIOD.—A business shall not fail to be treated as an enterprise zone business for any taxable year beginning after the testing period by reason of failing to meet any requirement of subsection (b) or (c) of section 1397B if at least 35 percent of the employees of such business for such year are residents of an empowerment zone or an enterprise community. The preceding sentence shall not apply to any business which is not a qualified business by reason of paragraph (1), (4), or (5) of section 1397B(d).

"(C) DEFINITIONS RELATING TO SUBPARAGRAPH (B).—For purposes of subparagraph (B)—

"(i) STARTUP PERIOD.—The term 'startup period' means, with respect to any property being provided for any business, the period before the first taxable year beginning more than 2 years after the later of—

"(I) the date of issuance of the issue providing such property, or

"(II) the date such property is first placed in service after such issuance (or, if earlier, the date which is 3 years after the date described in subclause (I)).

"(ii) TESTING PERIOD.—The term 'testing period' means the first 3 taxable years beginning after the startup period.

"(D) PORTIONS OF BUSINESS MAY BE ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' includes any trades or businesses which would qualify as an enterprise zone business (determined after the modifications of subparagraph (B)) if such trades or businesses were separately incorporated."

(b) MODIFICATIONS RELATING TO QUALIFIED ZONE PROPERTY.—Paragraph (2) of section 1394(b) (defining qualified zone property) is amended to read as follows:

"(2) QUALIFIED ZONE PROPERTY.—The term 'qualified zone property' has the meaning given such term by section 1397C; except that—

"(A) the references to empowerment zones shall be treated as including references to enterprise communities, and

"(B) section 1397C(a)(2) shall be applied by substituting 'an amount equal to 15 percent of the adjusted basis' for 'an amount equal to the adjusted basis'."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

**SEC. 204. MODIFICATIONS TO ENTERPRISE ZONE BUSINESS DEFINITION FOR ALL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.**

(a) IN GENERAL.—Section 1397B (defining enterprise zone business) is amended—

(1) by striking "80 percent" in subsections (b)(2) and (c)(1) and inserting "50 percent",

(2) by striking "substantially all" each place it appears in subsections (b) and (c) and inserting "a substantial portion",

(3) by striking ", and exclusively related to," in subsections (b)(4) and (c)(3),

(4) by adding at the end of subsection (d)(2) the following new flush sentence:

"For purposes of subparagraph (B), the lessor of the property may rely on a lessee's certification that such lessee is an enterprise zone business.",

(5) by striking "substantially all" in subsection (d)(3) and inserting "at least 50 percent", and

(6) by adding at the end the following new subsection:

"(f) TREATMENT OF BUSINESSES STRADDLING CENSUS TRACT LINES.—For purposes of this section, if—

"(1) a business entity or proprietorship uses real property located within an empowerment zone,

"(2) the business entity or proprietorship also uses real property located outside the empowerment zone,

"(3) the amount of real property described in paragraph (1) is substantial compared to the amount of real property described in paragraph (2), and

"(4) the real property described in paragraph (2) is contiguous to part or all of the real property described in paragraph (1),

then all the services performed by employees, all business activities, all tangible property, and all intangible property of the business entity or proprietorship that occur in or is located on the real property described in paragraphs (1) and (2) shall be treated as occurring or situated in an empowerment zone."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

(2) SPECIAL RULE FOR ENTERPRISE ZONE FACILITY BONDS.—For purposes of section 1394(b) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

**TITLE III—EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS**

**SEC. 301. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:

**"SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.**

"(a) IN GENERAL.—A taxpayer may elect to treat any qualified environmental remediation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

"(b) QUALIFIED ENVIRONMENTAL REMEDIATION EXPENDITURE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified environmental remediation expenditure' means any expenditure—

"(A) which is otherwise chargeable to capital account, and

"(B) which is paid or incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

"(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—Such term shall not include any expenditure for the acquisition of property of a character subject to the allowance for depreciation which is used in connection with the abatement or control of hazardous substances at a qualified contaminated site; except that the portion of the allowance under section 167 for such property which is otherwise allocated to such site shall be treated as a qualified environmental remediation expenditure.

"(c) QUALIFIED CONTAMINATED SITE.—For purposes of this section—

"(1) QUALIFIED CONTAMINATED SITE.—

"(A) IN GENERAL.—The term 'qualified contaminated site' means any area—

"(i) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(1) in the hands of the taxpayer,

"(ii) which is within a targeted area, and

"(iii) which contains (or potentially contains) any hazardous substance.

"(B) TAXPAYER MUST RECEIVE STATEMENT FROM STATE ENVIRONMENTAL AGENCY.—An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate agency of the State in which such area is located that such area meets the requirements of clauses (ii) and (iii) of subparagraph (A).

"(C) APPROPRIATE STATE AGENCY.— For purposes of subparagraph (B), the appropriate agency of a State is the agency designated by the Administrator of the Environmental Protection Agency for purposes of this section. If no agency of a State is designated under the preceding sentence, the appropriate agency for such State shall be the Environmental Protection Agency.

"(2) TARGETED AREA.—

"(A) IN GENERAL.—The term 'targeted area' means—

"(i) any population census tract with a poverty rate of not less than 20 percent,

"(ii) a population census tract with a population of less than 2,000 if—

"(I) more than 75 percent of such tract is zoned for commercial or industrial use, and

"(II) such tract is contiguous to 1 or more other population census tracts which meet the requirement of clause (i) without regard to this clause,

"(iii) any empowerment zone or enterprise community (and any supplemental zone designated on December 21, 1994), and

"(iv) any site announced before February 1, 1997, as being included as a brownfields pilot project of the Environmental Protection Agency.

"(B) NATIONAL PRIORITIES LISTED SITES NOT INCLUDED.—Such term shall not include any site which is on the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).

"(C) CERTAIN RULES TO APPLY.—For purposes of this paragraph, the rules of sections 1392(b)(4) and 1393(a)(9) shall apply.

"(D) TREATMENT OF CERTAIN SITES.—For purposes of this paragraph, a single contaminated site shall be treated as within a targeted area if—

"(i) a substantial portion of the site is located within a targeted area described in subparagraph (A) (determined without regard to this subparagraph), and

"(ii) the remaining portions are contiguous to, but outside, such targeted area.

"(d) HAZARDOUS SUBSTANCE.—For purposes of this section—

"(1) IN GENERAL.—The term 'hazardous substance' means—

"(A) any substance which is a hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

"(B) any substance which is designated as a hazardous substance under section 102 of such Act.

"(2) EXCEPTION.—Such term shall not include any substance with respect to which a removal or remedial action is not permitted under section 104 of such Act by reason of subsection (a)(3) thereof.

"(e) DEDUCTION RECAPTURED AS ORDINARY INCOME ON SALE, ETC.—Solely for purposes of section 1245, in the case of property to which a qualified environmental remediation expenditure would have been capitalized but for this section—

"(1) the deduction allowed by this section for such expenditure shall be treated as a deduction for depreciation, and

"(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

"(f) COORDINATION WITH OTHER PROVISIONS.—Sections 280B and 468 shall not apply to amounts which are treated as expenses under this section.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 198. Expensing of environmental remediation costs."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

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SECTION-BY-SECTION ANALYSIS

TITLE I—ADDITIONAL EMPOWERMENT ZONES

Section 101 would authorize the designation of an additional two urban empowerment zones under the 1994 first round.

TITLE II—NEW EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Section 201 authorizes a second round of designations, consisting of 80 enterprise communities and 20 empowerment zones. Of the 80 enterprise communities, 50 would be in urban areas and 30 would be in rural areas. Of the 20 empowerment zones, 15 would be in urban areas and 5 would be in rural areas. The designations would be made before January 1, 1999.

Certain of the eligibility criteria applicable in the first round would be modified for the second round of designations. First, the poverty criteria would be relaxed somewhat, so that unlike the first round there would be no requirement that at least 50 percent of the population census tracts have a poverty rate of 35 percent or more. In addition, the poverty criteria will not be applicable to areas specified in the application as developable for commercial or industrial purposes (1,000 acres in the case of an enterprise community, 2,000 acres in the case of an empowerment zone), and these areas will not be taken into account in applying the size limitations (e.g., 20 square miles for urban areas, 1,000 square miles for rural areas). The Secretary of Agriculture will be authorized to designate up to one rural empowerment zones and five rural enterprise communities based on specified emigration criteria without regard to the minimum poverty rates set forth in the statute. Rural census tracts in excess of 1,000 square miles or including a substantial amount of governmentally owned land may exclude such excess mileage or governmentally owned land from the nominated area. Unlike the first round, Indian reservations will be eligible to be nominated (and the nomination may be submitted by the reservation governing body without the State government's participation). The empowerment zone employment credit will not be available to businesses in the new empowerment zones, and the increased expensing under section 179 will not be available in the developable acreage areas of empowerment zones.

Section 202 authorizes a new category of tax-exempt financing for businesses in the new empowerment zones. These bonds, rather than being subject to the current State volume caps, will be subject to zone-specific caps. For each rural empowerment zone, up to $60 million in such bonds may be issued. For an urban empowerment zone with a population under 100,000, $130 million of these bonds may be issued. For each urban empowerment zone with a population of 100,000 or more, $230 million of these bonds may be issued.

Section 203 liberalizes the current definition of an "enterprise zone business" for purposes of the tax-exempt financing available under both the first and second rounds. Businesses will be treated as satisfying the applicable requirements during a 2-year start-up period if it is reasonably expected that the business will satisfy those requirements by the end of the start-up period and the business makes bona fide efforts to that end. Following the start-up period a 3-year testing period will begin, after which certain enterprise zone business requirements will no longer be applicable (as long as more than 35 percent of the business' employees are residents of the empowerment zone or enterprise community). The rules under which substantially renovated property may be "qualified zone property," and thereby be eligible to be financed with tax-exempt bonds, would also be liberalized slightly.

Section 204 liberalizes the definition of enterprise business for purposes of both the tax-exempt financing provisions and the additional section 179 expensing by reducing from 80 percent to 50 percent the amount of total gross income that must be derived within the empowerment zone or enterprise community, by reducing how much of the business' property and employees' services must be located in or provided within the zone or community, and by easing the restrictions governing when rental businesses will qualify as enterprise zone businesses. A special rule is also provided to clarify how a business that straddles the boundary of an empowerment zone or enterprise community (e.g., by straddling a population census tract boundary) is treated for purposes of the enterprise zone business definition.

TITLE III—EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS

Section 301 would provide a current deduction for certain remediation costs incurred with respect to qualified sites. Generally, these expenses would be limited to those paid or incurred in connection with the abatement or control of environmental contaminants. This deduction would apply for alternative minimum tax purposes as well as for regular tax purposes.

Qualified sites would be limited to those properties that satisfy use, geographic, and contamination requirements. The use requirement would be satisfied if the property is held by the taxpayer incurring the eligible expenses for use in a trade or business or for the production of income, or if the property is of a kind properly included in the inventory of the taxpayer. The geographic requirement would be satisfied if the property is located in (i) any census tract that has a poverty rate of 20 percent or more, (ii) any other census tract (a) that has a population under 2,000, (b) 75 percent or more of which is zoned for industrial or commercial use, and (c) that is contiguous to one or more census tracts with a poverty rate of 20 percent or more, (iii) an area designated as a federal EZ or EC or (iv) an area subject to one of the 40 EPA Brownfields Pilots announced prior to February 1997. Both urban and rural sites may qualify. Superfund National Priority listed sites would be excluded.

The contamination requirement would be satisfied if hazardous substances are present or potentially present on the property. Hazardous substances would be defined generally by reference to sections 101(14) and 102 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), subject to additional limitations applicable to asbestos and similar substances within buildings, certain naturally occurring substances such as radon, and certain other substances released into drinking water supplies due to deterioration through ordinary use.

To claim the deduction under this provisions, the taxpayer would be required to obtain a statement that the site satisfies the geographic and contamination requirements from a State environmental agency designated by the Environmental Protection Agency for such purposes or, if no such agency has been designated by the EPA, by the EPA itself.

This deduction would be subject to recapture under current-law section 1245. Thus, any gain realized on disposition generally would be treated as ordinary income, rather than capital gain, up to the amount of deductions taken with respect to the property.

• Mr. D'AMATO. Mr. President, I join my colleagues, Senators MOSELEY-BRAUN, ABRAHAM, JEFFORDS, DASCHLE, LIEBERMAN, and MURRAY, in introducing legislation that will provide a new tax incentive to encourage the private sector to clean up thousands of contaminated, abandoned sites known as brownfields. Brownfield sites are abandoned or vacant commercial and industrial properties suspected of being environmentally contaminated.

Under current law, the IRS has determined that costs incurred to clean up land and ground water are deductible as business expenses, as long as the costs are incurred by the same taxpayer that contaminated the land, and that taxpayer plans to use the land after the cleanup for the same purposes used prior to the cleanup. That means that new owners who wish to use land suspected of environmental contamination for a new purpose, would be precluded from deducting the costs of cleanup in the year incurred. They would only be allowed to capitalize the costs and depreciate them over time. Therefore, it is time for us to recognize the need for aggressive economic development policies for the future economic health of communities around the country, and to recognize the inequity of current tax law. My colleagues and I believe that our legislation is the type of initiative the Federal Government needs to encourage development of once abandoned, unproductive sites that will bring real economic benefits to urban distressed and rural areas across the United States. By encouraging redevelopment, jobs will be created, economic growth will continue, property values will increase as well as local tax revenues.

Mr. President, I am proud to say that in my State of New York, the city of Elmira has been selected as a fourth round finalist for the EPA's Brownfields Economic Redevelopment Initiative Demonstration Pilot Program. The city of Elmira has primed an unsightly and unsafe urban brownfield and is now in the final stages of turning it into a revenue- and jobs-producing venture. The city of Elmira initiated this important project with no guarantees of public or private funding and has done this at very minimal cost to taxpayers. Can you imagine what could and would be done if the public and private sector had the encouragement to also become involved?

Mr. President, I urge my colleagues on both sides of the aisle to join us in cosponsoring this important legislation.•

• Mr. JEFFORDS. Mr. President, I am pleased to join with Senators MOSELEY-BRAUN, D'AMATO, ABRAHAM, and LIEBERMAN in sponsoring the Community Empowerment Act of 1997, which will encourage the cleanup of abandoned industrial sites known as brownfields in Vermont and across the country.

The term "brownfields" refers to contaminated industrial sites. Most of these sites were abandoned during the

1970's and 1980's, as industrial development migrated away from urban areas to the greener landscape of the suburbs. One such site in Vermont is the Holden-Leonard Mill, a 20-building complex in Bennington, VT, that is poised to become a brownfields success story after 10 years of work.

Once employing one-quarter of Bennington's work force, the mill shut down in 1939 and then was owned by a patchwork of owners until the 1980's. After soil tests disclosed high levels of pollutants, the mill sat empty after 1986. Fortunately, a buyer of the site came forward in 1992 and with cooperation between the business, State agencies, and the EPA the mill has been refurbished and over 200 new employees have been hired. The process, however, of revitalizing this site began in 1986 and is still going on.

Our aim with this legislation is to provide tax incentives to businesses willing to clean up and redevelop brownfields sites so that more brownfield sites can be returned to productive use and so that the process doesn't have to take 10 years.

Last November, I sponsored a forum on brownfields redevelopment in Burlington, VT. There is only one unpolluted site in Burlington available for industrial development. Yet there are currently 17 brownfields sites in the city, all with great potential for development. I toured several of these sites and saw this potential first hand. Burlington is both an EPA brownfields pilot city and an enterprise community. Under our legislation, businesses that acquire these sites would be able to claim tax deductions for their environmental cleanup costs. With tax incentives for brownfields redevelopment, I am hoping that we will see more of these abandoned sites returned to productive use.

We treasure our open spaces in Vermont, and we are looking at ways to give incentives to companies to invest in our downtowns. When a company builds a facility on a brownfield site it takes advantage of existing infrastructure. The revitalization of a brownfield site means one less farm or field is paved over or forest cut down for the sake of a new plant or facility.

I urge my colleagues to join us in supporting this bill.•

• Mr. LIEBERMAN. Mr. President, I am delighted to join this distinguished group of Senators in introducing legislation to provide tax incentives for the cleanup of brownfields. This legislation will provide a powerful incentive to clean-up these sites. And that clean up will be followed by more jobs and more economic growth in areas that very much need both of those things. I am encouraged by the broad, bipartisan support both here in the Congress and in the administration and in the environmental community and in the business community, to provide tax incentives to get these sites cleaned up.

Brownfield sites are abandoned commercial and industrial properties that are environmentally contaminated. Developers and lenders avoid these sites both for liability reasons and because the tax incentives for cleaning up these sites is so limited. The result is an urban landscape littered with vacant and abandoned properties—properties which invite crime, depress surrounding housing and commercial prices, and hinder economic growth in these areas. Additionally, by discouraging the clean-up of brownfields, we are encouraging the development of undeveloped areas known as greenfields.

This bill is simple: it allows taxpayers who purchase contaminated properties to deduct the costs of cleaning up brownfields in the year that cleanup expenses occur. This tax incentive would apply to existing and future empowerment zones and enterprise communities, in areas with a poverty rate of 20 percent or more and in adjacent industrial and commercial areas and in existing brownfields pilot areas as designated by the Environmental Protection Agency. Currently, a taxpayer who buys a contaminated property and cleans it up must spread the costs of that cleanup over time. We expect the cost of this bill to be about $2 billion over 7 years. The administration has estimated that this proposal may bring as many as 30,000 brownfield sites back to productive use.

In Connecticut, my home State, we know first hand about the problems these brownfield sites can pose for a community. In her soon to be released study of various brownfields sites, Edith M. Pepper of the Northeast-Midwest Institute included the Bryant Electric Plant in Bridgeport, CT, as one of her case studies. As she notes, the Bryant Electric Plant shut down in 1988 after 90 years of operating in Bridgeport's west end. It is no secret that Bridgeport is in difficult shape economically. Closing this 500,000 square foot facility did nothing to help that situation.

However, as Ms. Pepper notes in her case study of this brownfields site, it appears that hope is on the way. A nonprofit development group, the West End Community Development Corp. [CDC] is working to form a large business park on and around the Bryant site. Over $15 million has already been invested in the site, including a significant amount for cleanup. According to city officials, the developer plans to create 300–400 new jobs and invest $20–50 million in Bridgeport's west end.

The brownfields bill we are introducing today could help in Bridgeport. Undoubtedly it could help in places like New Haven and Hartford as well.

The bill we are introducing today expands upon a bill that Senator ABRAHAM and I introduced in the last Congress, S. 1542. That bill limited these cleanup incentives to the 104 empowerment zones and enterprise communities that exist in 42 States across the country. I am delighted by today's effort to expand on the number of regions and sites that will be covered in the brownfields legislation and I urge my colleagues to join us in cosponsoring this important legislation.•

• Mr. ABRAHAM. Mr. President, I join Senator MOSELEY-BRAUN, Senator JEFFORDS, Senator LIEBERMAN, Senator D'AMATO, and others in introducing the Community Empowerment Act of 1997. This legislation builds upon the legislation Senator LIEBERMAN and I introduced last Congress, as well as the similar legislation introduced by Senators MOSELEY-BRAUN, D'AMATO, and JEFFORDS.

Having now joined forces for the new Congress, the Moseley-Braun-Abraham legislation will provide tax incentives for the environmental cleanup of brownfields located in economically distressed areas. There are between 100,000 and 300,000 of these sites across the country, Mr. President, and they are a blight on both the landscape and the economy of our communities.

I am sponsoring this legislation because, in my view, too many of our troubled cities, towns, and rural areas have both environmental and economic problems. These problems conspire to produce an endless cycle of impoverishment. Contaminated sites are abandoned and new companies refuse to take over the property for fear of environmental lawsuits from government and/or private parties. As a result, contamination and joblessness continue and even get worse.

For example, a survey of Toledo, OH businesses found that environmental concerns were affecting 62 percent of the area's commercial and industrial real estate transactions. These effects are all but universally negative in terms of job creation and economic development.

Another example: Construction of a $3 million lumber treatment plant in Hammond, IN was abandoned after low levels of contamination were found at the proposed site. The developer concluded that uncertain costs and potential liabilities outweighed the site's benefits.

The city of Hammond lost construction jobs, 75 full-time lumber plant jobs, and any reasonable prospect that a developer would assume the risk of developing property anywhere on the 20 acre site.

In Flint, the former site of Thrall Oil Co., now sits vacant. Economic development officials believe this property should attract future manufacturing development. Unfortunately, because the Michigan Department of Environmental Quality has labeled it "contaminated," developers cannot be found.

For decades now, Mr. President, the Federal Government has tried, with little success, to revitalize economically

distressed areas. The blight remains. Urban renewal and various welfare programs too often have only made things worse by spawning dependency on government help. Environmental laws have fared little better. Intended to force cleanup of contaminated sites, these laws instead have scared away potential investors with potentially unlimited liability, including liability for contamination the investors did not cause or even know about.

Environmental regulations and liability established under the Federal Superfund Program along with various other Federal and State environmental rules have helped create thousands of these brownfield properties in the United States. These are industrial or commercial sites suspected of being in some way environmentally contaminated. Although not serious threats to public health and safety, these properties have become unavailable for economic use, because legal rules make them too financially risky for investment and job creation.

Potential liability scares businesses and investors away from these sites, creating permanently abandoned blights on the urban and rural landscape. Investors are afraid of being dragged into multimillion-dollar litigation and cleanup over contamination they did not cause. Worse, investors willing to shoulder the liability of a potential environmental cleanup find that they cannot write off the cost of environmental remediation of brownfields. Instead these costs must be spread over a number of years. Thus, the Tax Code and environmental laws combine to scare away potential sources of investment and growth, often from our most economically distressed areas.

To help both our economy and our environment, the Moseley-Braun-Abraham legislation would target tax benefits at brownfields in economically distressed areas to encourage cleanup and job creation. We would allow investors in brownfields to expense their cleanup costs immediately—without having to split these costs up over a number of years. This will have three positive effects.

First, these incentives will help our communities. By encouraging redevelopment of abandoned, unproductive sites, these tax incentives will reinvigorate economic growth in distressed communities across the country. They will provide economic opportunity rather than government dependence by encouraging investment and entrepreneurship where it is most needed.

Second, this legislation will help the environment. These tax incentives will significantly improve our ability to clean up environmentally contaminated sites. The legacy of existing cleanup laws is a remarkable lack of progress. With thousands of sites across the country categorized as brownfields, we need to start cleaning them now, and we need private investment to get the job done. Furthermore, encouraging brownfields cleanup will save undeveloped land from unnecessary development. For every brownfield that is cleaned up and reused there will be a green field that remains clean and unused. Third, this solution, unlike those attempted in the past, utilizes the private sector to reclaim contaminated land and reinvigorate distressed communities. By encouraging private investment, rather than attempting to purchase or force cooperation with government mandates, we can free up private capital and initiative to do its job of revitalizing these distressed areas.

By adopting this approach, the Senate will take a significant step toward revitalized, reinvigorated, and renewed urban and rural zones. With the incentives, included in this amendment, good jobs and a clean environment will go together, to everyone's benefit. I thank Senators MOSELEY-BRAUN, D'AMATO, LIEBERMAN, JEFFORDS, and our other cosponsors for joining me in this important effort, and I look forward to seeing meaningful brownfields reforms passed this Congress.●

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By Mr. GRAMS (for himself, Mr. ABRAHAM, Mr. ASHCROFT, Mr. FAIRCLOTH, Mr. HUTCHINSON, Mr. KYL, Mr. MCCAIN, Mr. STEVENS and MR. HAGEL):

S. 236. A bill to abolish the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

THE DEPARTMENT OF ENERGY ABOLISHMENT ACT

Mr. GRAMS. Mr. President, I introduce legislation aimed at improving government as we know it. The Department of Energy Abolishment Act of 1997 comes after nearly two decades of debate. The basic question has always remained the same: Why should we expend taxpayer dollars on this Cabinet-level agency? And today, we ask the same question.

Following a year's worth of discussions on the blueprint I am putting forth, much progress has been made. When the 104th Congress began to tackle this issue, we looked at three main issues. First, we examined the fact that the Department of Energy no longer has a mission—which is clearly reflected by the fact that nearly 85 percent of its budget is expended upon nonenergy programs. Next, we studied those programs charged to the DOE and reviewed its ability to meet the related job requirements. And finally, we looked at the DOE's bloated budget in light of the first two criterion—determining whether the taxpayers should be forced to expend over $16 billion annually on this hodge-podge collection.

Nearly a year later, this Nation continues to grow increasingly dependent upon foreign oil—in total contrast to the DOE's core mission. Even in light of this administration's focus on alternative energy, the DOE expends less than one-fifth of its budget on energy-related programs. And after examining key DOE mission programs, such as the Civilian Nuclear Waste program, it is clear that the goals of those missions are not being met.

So we are challenged to either accept the status quo or move to change it. I must admit that the status quo may be easier in the short term. But in the context of the proverbial big picture, we cannot afford to turn our backs. Besides the fact that it is the role of Congress to oversee taxpayer expenditures and ensure a fair rate of return on their investments, this Nation is faced with a national debt in excess of $5.3 trillion.

However, gaining consensus on the need for change is easier than effecting such change. So, last year I worked with the Senate Task Force on Government Agency Elimination to develop a blueprint. Under the direction of the former Senate Majority Leader, Senator Dole, I worked with Senators FAIRCLOTH, ABRAHAM, and STEVENS to study proposals on the DOE.

After months of discussions with experts in the fields of energy and defense, we introduced legislation—legislation which is the core of the bill I am introducing today.

Let me be the first to state that the ideas contained within this bill are not all of my own. Just as the idea to eliminate the Department of Energy is not a new one—since its creation in 1978, experts have been clamoring to abolish this agency in search of a mission. This bill represents the comments and input of many who have worked in these fields for decades, but like all things—I consider it a work in progress.

As many of our colleagues will recall, the Senate Energy and Natural Resources Committee held a hearing on this very bill last September. During the hearing, we received testimony from such distinguished witnesses as the Former Assistant Energy Secretary Shelby Brewer and the Former Defense Secretary Caspar Weinberger in support of the proposal. Having either directly run these programs, or relied upon them, they provided strong firsthand evidence as to the detriment of leaving things as they are.

The committee also received testimony from the current Acting Secretary and then-Assistant Energy Secretary, Charlie Curtis, who testified in support of improving the delivery of the Department's missions, at lower cost, for the benefit of the American people. His testimony focused upon how the DOE was working to improve its efforts to fulfill various missions, and how changing horses midstream would derail the DOE's efforts. In his

remarks, Mr. Curtis dismissed the DOE Abolishment Act because the DOE did not believe it appropriate to entertain matters of this moment and complexity in the context of a bill which has as its proposed objective changing the organizational structure and fate of the Department of Energy.

What the DOE fails to recognize is that the conclusions—to abolish the DOE—arise from an analysis of the Department's activities, rather than from any antigovernment ideology or mere desire to reduce government spending, as pointed out by Dr. Irwin Stelzer of the American Enterprise Institute. Supporters of the DOE Abolishment Act have always agreed that there are core functions performed by the DOE which must continue to be done, but the DOE has yet to provide a compelling argument as to why the DOE itself must continue to exist or successfully respond to our reasons for its elimination.

But Mr. Curtis' objections are understandable when placed in the context of remarks by Nobel-prize economist, Dr. Milton Friedman: "The Department of Energy offers an excellent example of a major difference between private and government projects. If a private project is a failure, it will be closed down; if a government project is a failure, it will be expanded. * * * It is in the self-interest of the Government officials in charge to keep the project alive; and they always have the ready excuse that the reason for failure was the lack of sufficient funds."

So today, I am joined by my colleagues, Senator ABRAHAM of Michigan, Senator ASHCROFT of Missouri, Senator FAIRCLOTH of North Carolina, Senator HUTCHINSON of Arkansas, Senators KYL and MCCAIN of Arizona and Senator STEVENS of Alaska, in reaffirming congressional intent to change the Department of Energy as we know it.

Under the Department of Energy Abolishment Act of 1997, we dismantle the patchwork quilt of government initiatives—reassembling them into agencies better equipped to accomplish their basic goals; we refocus and increase Federal funding toward basic research by eliminating corporate welfare; and, we abolish the bloated, duplicative upper management bureaucracy.

First, we begin by eliminating Energy's Cabinet-level status and establish a 3-year Resolution Agency to oversee the transition. This is critical to ensuring progress continues to be made on the core programs.

Under title I, the Federal Energy Regulatory Commission [FERC] is spun off to become an independent agency, like it was prior to the creation of the DOE. The division which oversees hearings and appeals is eliminated, with all pending cases transferred to the Department of Justice for resolution within 1 year. The functions of the Energy Information Administration are transferred to the Department of the Interior with the instruction to privatize as many as possible. And with the exception of research being conducted by the DOE labs, basic science and energy research functions are transferred to Interior for determination on which are basic research, and which can be privatized. Those deemed as core research will be transferred to the National Science Foundation and reviewed by an independent commission. Those that are more commercial in nature will be subject to disposition recommendations by the Secretary of the Interior.

The main reasoning behind this is to ensure the original mission of the DOE—to develop this Nation's energy independence—is carried out. With scarce taxpayer dollars currently competing against defense and cleanup programs within the DOE, it's no surprise that little progress has been made. However, by refocusing dollars into competitive alternative energy research—we will maximize the potential for areas such as solar, wind, biomass, and so forth. For States like Minnesota, where the desire for renewable energy technologies is high, growth in these areas could help fend off our growing dependence upon foreign oil while protecting our environment.

Under Title II, the laboratory structure within the DOE is revamped. First, the three defense labs are transferred to the Defense Department. They include Sandia, Los Alamos and Lawrence Livermore. The remaining labs are studied by a nondefense energy laboratory commission. This independent commission operates much like the Base Closure Commission and can recommend restructuring, privatization, or a transfer to the DOD as alternatives to closure. Congress is granted fast-track authority to adopt the Commission's recommendations.

Title III attempts to assess an inventory of the Power Marketing Administration's assets, liabilities, and so forth. This inventory is aimed at ensuring fair treatment of current customers and a fair return to the taxpayers. All issues, including payments by current customers must be included in the General Accounting Office's [GAO] audit.

Petroleum reserves are the focus of title IV. The Naval Petroleum Reserve is targeted for immediate sale. Any of the reserves that are unable to be disposed of within the 3-year window will be sold transitionally from the Interior Department. With the Strategic Petroleum Reserve, it is transferred to the Defense Department and an audit on value and maintenance costs is conducted by the GAO. Then, the DOD is charged with determining how much oil to maintain for national security purposes after reviewing the GAO report.

Under titles V and VI, all of the national security and environmental restoration-management activities to the Department of Defense. Therefore, all defense-related activities are transferred back to Defense, but are placed in a new civilian controlled agency—Defense Nuclear Programs Agency—to ensure budget firewalls and civilian control over sensitive activities such as arms control and nonproliferation activities.

And the program which has received much criticism as of late, the Civilian Nuclear Waste Program, is transferred to the Corps of Engineers. This section dovetails legislation adopted by the Senate last Congress. A key element is that the interim storage site is designated at Nevada's test site area 25. Building upon legislation I introduced last Congress, the GAO is directed to recommend privatization options and provide cost saving estimates for the overall program.

For 35 States, including my home State of Minnesota, timely resolution to the nuclear waste issue is essential. The continued impasse over the designation of interim and permanent waste sites implies additional slippages in the DOE's legal requirement to accept nuclear waste by 1998. Minnesota stands to lose nearly 30 percent of its energy resources shortly after the turn of the century, but 34 other States face similar crisis. Having paid over $250 million into the Nuclear Waste Trust Fund, Minnesota's ratepayers want resolution, not the continual foot-dragging we have seen from the DOE. And when we look at the $12 billion collected to date in contrast to the lack of progress over the past 15 years, it is clear that the status quo is not working. That is primarily the impetus behind today's announcement by the Nuclear Waste Strategy Coalition that they are petitioning the Courts for approval to stop payments to the Nuclear Waste Trust Fund. Until the Court order in July, the DOE even denied accountability for the program. It is time for a change if we want results. This legislation provides that change.

Overall, outside models estimate savings between $19 and $23 billion in the first 5 years, and approximately $5 to $7 billion annually thereafter. This is in sharp contrast to the former Secretary's Strategic Alignment Initiative, which boasts unconfirmed savings of $14 billion but no savings in the outyears.

In introducing this bill, our goals are to build upon the issues raised during last year's hearing; to hold additional hearings in conjunction with those who have expressed concerns over the Department of Energy—including Senator BROWNBACK of Kansas, chairman of the Government Affairs Subcommittee on Government Management Oversight; and, to move forward on implementing a widely supported proposal. And, in the coming weeks, Representative TIAHRT of Kansas will be introducing

companion legislation in the House of Representatives in the near future.

Contrary to proponents of the status quo, the momentum is far from being derailed. In fact, if we were to look at the Department of Energy's own Report on External Regulation issued in December 1996, even its own working group recommended transferring the regulation of its nuclear facilities to outside entities. The report concluded that through external regulation, and adoption of the private sector's safety culture, program safety and public confidence would be greatly enhanced. We agree. And we would like to see such concepts applied across the board to DOE's programs—and the DOE ultimately eliminated. We welcome any input to that end from the administration.

And so looking back over the past year—examining how the debate has transformed from one of whether or not to maintain the status quo, to one of how to change it—I am encouraged over the progress we have made. Today, we mark the beginning of the debate on achieving our goal of streamlining government and improving the delivery of government services at lower costs to the American taxpayers. One year from now, it is my hope that we will be working toward the implementation of a restructuring plan on the Department of Energy.

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By Mr. BUMPERS:

S. 237. A bill to provide for retail competition among electric energy suppliers for the benefit and protection of consumers, and for other purposes; to the Committee on Energy and Natural Resources.

THE ELECTRIC CONSUMERS PROTECTION ACT OF 1997

Mr. BUMPERS. Mr. President, I rise today to introduce the Electric Consumers Protection Act of 1997. This bill provides for the transition toward deregulation and competition in electricity generation.

While very few people, including myself, find a discussion of the electric utility industry and the many laws and regulations governing the industry exciting, the fact is that electricity is an extremely important commodity which affects everyone on a daily basis. Any event that increases or reduces electric rates can impact: First, the lives of the poor and those on fixed incomes that depend on electricity to heat their homes in the winter and cool them in the summer; second, the price of goods we buy every day; as well as, third, the competitiveness of our factories. In addition, decisions made by electric generators often have a direct effect on our environment as well as our national security.

So, it is not at all inconsequential that the electric industry, which has remained relatively static for the last 60 years, is about to undergo a fundamental change. Instead of the traditional vertically integrated local utility, which generates power at its own plants, transmits that power over its own lines, and sells that power to all consumers in a particular area, consumers will soon be bombarded with all sorts of offers from companies competing to become their power supplier, and other entrepreneurs will be seeking to buy large blocks of power to serve certain kinds of consumers. Naturally, these changes are bound to create considerable apprehension among utilities, their shareholders, and consumers.

Mr. President, there are some who would prefer that we maintain the status quo. However, it is becoming increasingly certain that competition is inevitable. At least six States—California, New Hampshire, Rhode Island, Pennsylvania, Vermont, and Massachusetts—have already enacted legislation or promulgated regulations providing for competition. A number of other States have established proceedings to determine how to move toward competition. In all, more than 40 States have either ordered, or are examining the possibility of requiring, deregulation of the retail electric markets.

Theoretically, introducing competition among electric power providers should produce greater efficiencies and lower electric rates. Certainly large industrial consumers of electricity would see significant reductions in their energy bills, but I am more concerned about the potential impact on residential and small commercial consumers—the biscuit cookers as we call them in Arkansas. Generating companies may be less eager to compete to serve these customers, especially those located in rural areas. This reduced bargaining power could also end up causing residential and small commercial customers to pay for those costs arising from the transition to competition—that is, stranded costs—costs that industrial consumers can more easily avoid.

I believe it is the role of both Congress and the States to ensure that the biscuit cookers also benefit. It is not enough to simply proclaim that the days of the utilities' vertically integrated monopolies are over. We also have a solemn obligation to be fair to utility companies that have been operating in reliance on the ground rules we all created over the last 60 years. This will require a careful balancing of competing interests. Everyone will benefit by restructuring if it is done properly, and I consider this an absolutely essential result.

Mr. President, I am introducing this bill to begin the debate in the 105th Congress about how best to promote an orderly transition to a competitive retail electric market. This legislation is designed with the goals of allowing all consumers to enjoy the benefits of competition while not penalizing utilities for prudent decisions they made under the previous regulatory system.

There is significant debate over whether Congress should even pass legislation on this subject. The argument that the States should decide these issues certainly has some merit. After all, retail electric service has generally been the domain of the States, although requirements imposed at the Federal level by both FERC and Congress have had a direct impact on retail rates and service.

But I personally believe a State-by-State approach could produce a lot of unintended consequences which would limit the benefits associated with retail competition. Electric generation markets are becoming increasingly regional and even multiregional. What happens in one State can have direct and indirect impacts on consumers and utilities located in another State. Utilities operating in more than one State can be subjected to conflicting regulatory regimes which could impact the way they operate their systems and the electric rates paid by consumers.

This phenomenon is best illustrated by the multistate utility holding companies registered under the Public Utility Holding Company Act [PUHCA]. I have had a lot of experience with registered holding companies because two of them serve my home State of Arkansas. These holding companies generally plan for, and operate, generating facilities on a systemwide basis for the benefit of customers in the entire region served by the company. If restructuring proceeds on a State-by-State basis, these holding companies would find themselves subjected to different requirements which could negatively impact consumers.

For example, the Entergy System serves retail customers in parts of Louisiana, Texas, Mississippi, and Arkansas. If Louisiana and Texas were to order retail competition and Arkansas and Mississippi decided to delay competition, it would be difficult, if not impossible, for Entergy to operate a system of generating facilities designed to serve a particular load over a four-State area. It is quite possible that consumers in Arkansas and Mississippi would wind up paying more for their service. Entergy's captive customers in Arkansas and Mississippi could be further disadvantaged to the extent Entergy were to become financially imperiled as a result of the retail competition orders in Texas and Louisiana.

A State-by-State approach to retail competition also presents problems where utilities operate entirely within a single State. It would make no sense for a utility in a State that does not require retail competition, to be able to sell power at retail in an adjoining State that requires retail competition, while a utility subjected to retail competition is unable to mitigate its losses

by competing for customers in the adjoining State. Such a result both increases stranded costs and distorts the generation marketplace.

My legislation requires that retail competition be implemented in each State by 2003. States will continue to have the option of choosing an earlier starting date. In addition, the States can individually oversee the transition to competition.

Moreover, if Congress is going to mandate retail competition then I believe we have an obligation to provide for utility recovery of its stranded investment in facilities that become uneconomic as a result of the transition to retail competition. That is not to say that a utility is automatically entitled to recover every penny of its investment. Rather, my bill limits utilities to recovery of their investments that: First, were prudent when incurred; second, are legitimate and verifiable; and third, cannot be mitigated by selling power to others in the competitive market.

My bill provides that if a utility seeks to recover stranded costs, a State commission would establish the level of such costs pursuant to an administrative determination or after the utility auctions off its assets to establish the market value of these facilities. Once the stranded costs are calculated, consumers would be assessed a wires charge to compensate the utility for its stranded costs.

It is vital that, as we proceed with electric restructuring, we act to ensure that the generation markets are truly competitive. It will do no good to remove Federal and State rate regulation if consumers do not have access to a sufficient number of potential power marketers. We have already seen this problem in other industries that have deregulated, where after an initial flurry of competitors entering a particular market, significant consolidation occurred.

Utilities obviously should not be allowed to use their advantageous positions with regard to transmission and distribution to gain a competitive advantage in the generation market. Utilities should not use funds from their transmission and distribution systems to subsidize their generation businesses. In addition, my bill requires the implementation of independent system operators [ISO's] to oversee the operation of transmission systems in each region.

We also must be mindful that power suppliers might not be falling all over themselves to serve certain consumers, especially those located in rural areas. My bill contains a universal service requirement to ensure that everyone who wants electric service has the opportunity to buy it at reasonable rates. The bill also authorizes States to collect fees from all consumers to help pay for the universal service obligation.

Mr. President, there are currently a number of utility-based programs which provide societal benefits. For instance, the Public Utility Regulatory Policies Act [PURPA] provides for utility purchases of energy generated at certain plants which use renewable resources or cogeneration. In addition, many States have programs requiring utilities to contribute to energy conservation and to help low-income people pay their energy bills. The costs of these programs are passed through to ratepayers. It will be more difficult for utilities to continue to implement these programs in a competitive retail environment. My bill authorizes States to collect wire charges to help pay for these kinds of programs.

Congressman DAN SCHAEFER has developed a proposal designed to promote the use of renewable generation. His portfolio approach would require each company selling power at retail to generate a portion of its power using renewable resources or to purchase credits from those companies that do generate in excess of the minimum requirements. I think it is very important that we do everything possible to promote the use of renewable energy and my bill contains a similar proposal.

Mr. President, over the last 25 years we have made substantial progress in cleaning our air and rivers, lakes and streams. It has come at a fairly big cost, but I doubt anyone would turn the clock back on our successes.

There are understandable conflicting positions about what will happen with the introduction of competition. Some argue that competition will increase the use of natural gas, which is more friendly to the environment than coal. Others argue that existing coal generating plants that were grandfathered in under the provisions of the Clean Air Act will be utilized more frequently. It is difficult to know who is right. But I think it is fair to say that we all have an obligation to protect our air quality and we shouldn't take this issue lightly. My bill requires EPA to submit a study to Congress within 2 years analyzing the issue and suggesting any changes to our laws that may need to be made to protect the environment.

Mr. President, the issues addressed by the Electric Consumers Protection Act of 1997 are very complex and far reaching. It is going to take Congress some time in order to sort them out and develop a consensus for a comprehensive approach to electric generation deregulation. I am introducing this bill today to begin the debate and propose one roadmap as to how we may get there. I look forward to working with my colleagues and all interested parties as we proceed to examine this very important issue over the next 2 years.

Mr. President, I ask unanimous consent that a copy of the bill and a summary of the bill be placed in the RECORD.

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

S. 237

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Electric Consumers Protection Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Severability.

TITLE I—RETAIL COMPETITION

Sec. 101. Definitions.
Sec. 102. Mandatory retail access.
Sec. 103. Aggregation.
Sec. 104. Prior implementation.
Sec. 105. State regulation.
Sec. 106. Stranded cost recovery.
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**SEC. 2. FINDINGS.**

The Congress finds that:

(a) Congress has the authority to enact laws, under the Commerce Clause of the United States Constitution, regarding the wholesale and retail generation, transmission, distribution, and sale of electric energy in interstate commerce.

(b) It is in the public interest that consumers receive reliable and inexpensive electric service and competition among electric suppliers can produce these benefits.

(c) Electric utility companies that prudently incurred costs pursuant to a regulatory structure that required them to provide electricity to consumers should not be

penalized during the transition to competition.

(d) Consumers will not benefit from the introduction of competition among electric suppliers if certain suppliers have undue market power.

(e) It is important to encourage conservation and the use of renewable resources to reduce reliance on fossil fuels and to promote domestic energy security.

(f) The transition to electric competition should not degrade reliability nor cause consumers to lose electric service.

**SEC. 3. SEVERABILITY.**

If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

**TITLE I—RETAIL COMPETITION**

**SEC. 101. DEFINITIONS.**

For purposes of this title:

(1) The term "affiliate" shall have the same meaning given the term in section 202(10) of this Act.

(2) The term "aggregator" means any person that purchases or acquires retail electric energy on behalf of two or more consumers.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

(4) The term "consumer" means a person who purchases retail electric energy.

(5) The term "corporation" means any corporation, joint-stock company, partnership, association, cooperative, municipal utility, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing.

(6) The term "large hydroelectric facility" means a facility which has a power production capacity, which together with any other facilities located at the same site is greater than 80 megawatts.

(7) The terms "local distribution facilities" and "retail transmission facilities" mean facilities used to provide retail electric energy to consumers.

(8) The term "mitigation" means any widely accepted business practice used by a retail electric energy provider to dispose of or reduce uneconomic assets or costs.

(9) The term "person" means an individual or corporation.

(10) The term "public utility holding company" shall have the same meaning given the term in section 202(6) of this Act.

(11) The term "renewable energy" means electricity generated from solar, wind, waste, except for municipal solid waste, biomass, hydroelectric or geothermal resources.

(12) The term "Renewable Energy Credit" means a tradable certificate of proof that one unit (as determined by the Commission) of renewable energy was generated by any person.

(13) The term "retail electric competition" means the ability of each consumer in a particular State to purchase retail electric energy from any person seeking to sell electric energy to such consumer.

(14) The term "retail electric energy" means electric energy and ancillary services sold for ultimate consumption.

(15) The term "retail electric energy provider" means any person who distributes retail electric energy to consumers regardless of whether the consumers purchase such energy from the provider or another supplier.

(16) The term "retail electric energy supplier" means any person which sells retail electric energy to consumers.

(17) The term "State" means any State or the District of Columbia.

(18) The term "State regulatory authority" means any State agency, including a municipality, which has ratemaking authority with respect to the rates of any retail electric energy provider and the Tennessee Valley Authority.

(19) The term "transmission system" means all facilities, including federally-owned facilities, transmitting electricity in interstate commerce in a particular region, including those located in the State of Texas and those providing international interconnections, but does not include local distribution and retail transmission facilities as defined by the Commission.

(20) The term "wholesale electric energy" means electric energy and related services sold for resale.

(21) The term "wholesale electric energy supplier" means any person which sells wholesale electric energy.

**SEC. 102. MANDATORY RETAIL ACCESS.**

(a) CUSTOMER CHOICE.—Beginning on December 15, 2003 each consumer shall have the right to purchase retail electric energy from any person, subject to any limitations imposed pursuant to section 105(a) of this Act, offering to sell retail electric energy to such consumer.

(b) LOCAL DISTRIBUTION AND RETAIL TRANSMISSION FACILITIES.—Beginning on December 15, 2003 all persons seeking to sell retail electric energy shall have reasonable and nondiscriminatory access, on an unbundled basis, to the local distribution and retail transmission facilities of all retail electric energy providers and all related services.

**SEC. 103. AGGREGATION.**

Subject to any limitations imposed pursuant to section 105(a) of this Act, a group of consumers or any person acting on behalf of such group may purchase or acquire retail electric energy for the members of the group if they are located in a State or States where there is retail electric competition.

**SEC. 104. PRIOR IMPLEMENTATION.**

(a) STATE ACTION.—A State or State regulatory authority, if authorized under State law, may require retail electric energy providers selling retail electric energy to consumers in such State to provide reasonable and nondiscriminatory access, on an unbundled basis, to its local distribution and retail transmission facilities and all related services to competing retail electric energy suppliers prior to December 15, 2003.

(b) NONREGULATED PROVIDERS.—A retail electric energy provider not subject to the jurisdiction of a State regulatory authority may elect to provide reasonable and nondiscriminatory access, on an unbundled basis, to its local distribution and retail transmission facilities and all related services to competing retail electric energy suppliers prior to December 15, 2003.

(c) GRANDFATHER.—Legislation enacted by a State or a regulation issued by a State regulatory authority prior to January 30, 1997 which has the effect of requiring retail electric competition on or before December 15, 2003, shall be deemed to be in compliance with the requirements of sections 102, 106 and 107 of this Act, for so long as such retail electric competition exists.

**SEC. 105. STATE REGULATION.**

(a) STATE REQUIREMENTS.—Nothing in this Act shall prohibit a State or a State regulatory authority from imposing requirements on persons seeking to sell retail electric energy to consumers in that State which are intended to promote the public interest, including requirements related to reliability and the provision of information to consumers and other retail electric suppliers. Any such requirements must be applied on a nondiscriminatory basis and may not be used to exclude any class of potential suppliers, such as retail electric energy providers, from the opportunity to sell retail electric energy providers, from the opportunity to sell retail electric energy.

(b) MAINTENANCE OF STATE AUTHORITY.—Nothing in this Act is intended to prohibit a State from enacting laws or imposing regulations related to retail electric energy service that are consistent with the requirements of this Act.

(c) CONTINUED STATE AUTHORITY OVER DISTRIBUTION.—A State or State regulatory authority may continue to regulate local distribution and retail transmission service currently subject to State regulation in any manner consistent with this Act.

**SEC. 106. STRANDED COST RECOVERY.**

(a) APPLICATION FOR RECOVERY.—A retail electric energy provider that was subject to the jurisdiction of a State regulatory authority prior to the date of enactment of this Act may submit an application to the State regulatory authority seeking calculation of its total stranded costs in that State if—

(1) subsequent to January 30, 1997, the State regulatory authority has issued a regulation or the State has enacted legislation requiring retail electric competition which does not provide for the full recovery of stranded costs; of

(2) the retail electric energy provider's customers have access to retail competition as a result of the requirements of Section 102 of this Act.

(b) CALCULATION OF STRANDED COSTS.—

(1) If a State regulatory authority calculates the applicant's stranded costs pursuant to subsection (a), the authority shall choose, within six months after the receipt of the application, between the calculation methodologies described in subsection (f) of this section.

(2) If a State regulatory authority does not calculate the retail electric energy provider's total stranded costs, the Commission shall calculate the provider's stranded costs using the methodology described in subsection (f)(2) of this section.

(c) NONREGULATED UTILITIES.—A retail electric energy provider that is not subject to regulation by a State regulatory authority prior to the date of enactment of this Act may calculate the amount of its total stranded costs pursuant to either methodology described in subsection (f) of this section.

(d) RIGHT OF RECOVERY.—A retail electric energy provider shall be entitled to full recovery of its stranded costs, over a reasonable period of time, through a nonbypassable Stranded Cost Recovery Charge imposed on its distribution and retail transmission customers.

(e) PROHIBITION ON COST-SHIFTING.—No class of consumers in a State shall be assessed a Stranded Cost Recovery Charge that a State regulatory authority or the Commission, whichever is applicable, determines is in excess of the class' proportional responsibility for the retail electric energy provider's costs that existed prior to the implementation of retail electric competition in such State.

(f) CALCULATION OF STRANDED COSTS.—For purposes of this section and section 107 of this Act, the term "stranded costs" means either (1) all legitimate, prudently incurred and verifiable investments made by a retail

electric energy provider in generation assets, including binding power purchase contracts, and related regulatory assets which would have been recoverable but for the implementation of retail electric competition following the date of enactment of this Act, and which cannot be reasonably mitigated or (2) if a retail electric energy provider sells all of its generating facilities, the difference between the book value of such facilities less the amount received from their sale. Nothing in this title is intended to permit a reassessment of prudence with regard to the incurrence of costs related to a particular generating facility or contract in the event a State Regulatory Authority or the Commission has already made a legally binding determination.

**SEC. 107. MULTISTATE UTILITY COMPANY STRANDED COSTS.**

(a) LIMITATION ON OBLIGATION.—Customers of a retail electric energy provider that serves customers in more than one State or that is affiliated with another retail electric energy provider shall only be responsible for stranded costs associated with retail electric competition in the State or area in which such customers are located.

(b) REGIONAL GENERATING FACILITIES.—

(1) The consent of Congress is given for the creation of a regional board if—

(A) each State regulatory authority regulating an affiliate of a public utility holding company with affiliate retail electric energy providers serving customers in more than one state elects to join such a board;

(B) an affiliate of the public utility holding company owns and/or operates a generating facility and sells power from that facility to two or more affiliates of the same holding company and did not sell retail electric energy prior to January 30, 1997 (hereinafter referred to as the "wholesale generating company"); and

(C) the public utility holding company notifies each State regulatory authority which regulates a retail electric energy provider affiliated with the holding company that it intends to seek recovery of the stranded costs associated with the generating facility or facilities (described in subsection (b)(1)(B)) owned by the wholesale generating company affiliated with such holding company.

(2) The regional board shall be formed if each State regulatory authority elects to create the board within six months after receiving the notification described in subsection (b)(1)(C). If such elections are not made within the requisite time period, the Commission shall assume the responsibilities of the board as described in this section.

(3) The regional board shall have one year after the date it is formed to calculate, on a unanimous basis, the stranded costs associated with the generating facility which is the subject of the proceeding in accordance with the definition contained in section 106(f) of the Act and to allocate such costs among the retail electric energy provider affiliates of the public utility holding company on a just and reasonable and nondiscriminatory basis.

(4) If the regional board fails to make either or both determinations, as described in subsection (b)(3) in the requisite time period, the Commission shall make the determination or determinations that have yet to be made.

(5) After its level of stranded costs is determined pursuant to this subsection, the wholesale generating company affiliate of the holding company shall be entitled to fully recover its stranded costs, over a reasonable period of time, from the retail electric energy provider affiliates to which it sells electric energy pursuant to the procedures established by this subsection.

(6) A retail electric energy provider's stranded cost payment obligations pursuant to this subsection shall be deemed stranded costs for the purposes of sections 106 and 107 of this Act.

**SEC. 108. UNIVERSAL SERVICE.**

(a) SERVICE OBLIGATION.—After December 15, 2003, each retail electric energy provider shall be obligated to sell retail electric energy to, or purchase retail electric energy on behalf of, any consumer in a particular State served by such retail electric energy provider if the State regulatory authority located in such State has determined that such consumer does not have reasonable access to competing retail electric energy suppliers and the consumer has not chosen an alternative supplier.

(b) COMPENSATION.—

(1) If the retail electric energy provider performing the service described in subsection (a) is subject to State regulatory authority regulation of its distribution services, such provider shall be compensated at a just and reasonable rate established by such regulatory authority.

(2) If the retail electric energy provider performing the service described in subsection (a) is not subject to distribution service regulation by a State regulatory authority, such provider shall establish the appropriate level of compensation.

(3) A State or a State regulatory authority, if authorized by the State, may impose a nonbypassable Universal Service Charge imposed on the distribution and retail transmission customers of all retail electric energy providers in such State to fund all or part of the compensation provided in subsections (b)(1) and (b)(2).

(4) A State regulatory authority or the retail electric energy provider, if it establishes its own level of compensation pursuant to subsection (b)(2), may require the consumer receiving retail electric energy pursuant to subsection (a) to pay for all or part of the compensation provided in subsections (b)(1) and (b)(2).

**SEC. 109. PUBLIC BENEFITS.**

Nothing in this Act shall prohibit a State or State regulatory authority from assessing charges on consumers to fund public benefit programs such as those designed to aid low-income energy consumers, promote energy research and development or achieve energy efficiency and conservation.

**SEC. 110. RENEWABLE ENERGY.**

(a) MINIMUM RENEWABLE REQUIREMENT.—Beginning on January 1, 2004 and each year thereafter, every retail electric energy supplier shall submit to the Commission Renewable Energy Credits in an amount equal to the required annual percentage of the total retail electric energy sold by such supplier in the preceding calendar year.

(b) STATE RENEWABLE ENERGY PROGRAMS.—Nothing in this section shall be construed to prohibit any State or any State regulatory authority from requiring additional renewable energy generation in that State under any program adopted by the State.

(c) REQUIRED ANNUAL PERCENTAGE.—Beginning in calendar year 2003, the required annual percentage for each retail electric energy supplier shall be 5 percent. Thereafter, the required annual percentage for each such supplier shall be 9 percent beginning in calendar year 2008 and 12 percent beginning in calendar year 2013.

(d) SUBMISSION OF CREDITS.—A retail electric energy supplier may satisfy the requirements of subsection (a) through the submission of—

(1) Renewable Energy Credits issued by the Commission under this section for renewable energy sold by such supplier in such calendar year.

(2) Renewable Energy Credits issued by the Commission under this section to any other retail electric energy supplier for renewable energy sold in such calendar year by such other supplier and acquired by such retail electric energy supplier.

(3) Any combination of the foregoing.

A Renewable Energy Credit that is submitted to the Commission for any year may not be used for any other purposes thereafter.

(e) ISSUANCE OF RENEWABLE ENERGY CREDITS.—

(1) The Commission shall establish by rule after notice and opportunity for hearing but not later than one year after the date of enactment of this Act, a National Renewable Energy Trading Program to issue Renewable Energy Credits to retail electric suppliers. Renewable Energy Credits shall be identified by type of generation and the State in which the facility is located. Under such program, the Commission shall issue—

(A) one-half of one Renewable Energy Credit to any retail electric energy supplier who sells one unit of renewable energy generated at a large hydroelectric facility;

(B) one Renewable Energy Credit to any retail electric energy supplier who sells one unit of renewable energy generated at a facility, other than a large hydroelectric facility, built prior to the date of enactment of this Act; and

(C) two Renewable Energy Credits to any retail electric supplier who sells one unit of renewable energy generated at a facility, other than a large hydroelectric facility, built on or after the date of enactment of this Act.

(2) The Commission shall impose and collect a fee on recipients of Renewable Energy Credits in an amount equal to the administrative costs of issuing, recording, monitoring the sale or exchange, and tracking such Credits.

(f) SALE OR EXCHANGE.—Renewable Energy Credits may be sold or exchanged by the person issued or the person who acquires the Credit. A Renewable Energy Credit for any year that is not used to satisfy the minimum renewable sales requirement of this section for that year may not be carried forward for use in another year. The Commission shall promulgate regulations to provide for the issuance, recording, monitoring the sale or exchange, and tracking of such Credits. The Commission shall maintain records of all sales and exchanges of Credits. No such sale or exchange shall be valid unless recorded by the Commission.

(g) RULES AND REGULATIONS.—The Commission shall promulgate such rules and regulations as may be necessary to carry out this section, including such rules and regulations requiring the submission of such information as may be necessary to verify the annual electric generation and renewable energy generation of any person applying for Renewable Energy Credits under this section or to verify and audit the validity of Renewable Energy Credits submitted by any person to the Commission.

(h) ANNUAL REPORTS.—The Commission shall gather available data and measure compliance with the requirements of this section and the success of the National Renewable Energy Trading Program established under this section. On an annual basis

not later than May 31 of each year, the Commission shall publish a report for the previous year that includes compliance data, National Renewable Energy Trading Program results, and steps taken to improve the Program results.

(i) SUNSET.—The requirements of this section shall cease to apply on December 31, 2019.

**SEC. 111. TRANSMISSION.**

(a) TRANSMISSION REGIONS.—Within two years after the date of enactment of this Act, the Commission shall establish the broadest feasible transmission regions and designate an Independent System Operator to manage and operate the transmission system in each region beginning on December 15, 2003. In establishing transmission regions and designating Independent System Operators the Commission shall give deference to Independent System Operators approved by the Commission prior to the date of enactment of this Act, if it would be consistent with the requirements of this section.

(b) INDEPENDENT SYSTEM OPERATORS.—A person designated as an Independent System Operator shall not be subject to the control of—

(1) any person owning any transmission facilities located in the region in which the Independent System Operator will operate; or

(2) any retail electric energy supplier selling retail electric energy to consumers in the region in which the Independent System Operator will operate.

(c) REGIONAL TRANSMISSION OVERSIGHT BOARD.—After the Commission has designated an Independent System Operator for a particular transmission system, each State that is part of the transmission region established by the Commission may elect to join a Regional Transmission Oversight Board. If all States within the transmission region so elect within 180 days after the Commission designates an Independent System Operator for the transmission region, the Board shall be formed.

(d) BOARD MEMBERSHIP.—The Regional Transmission Oversight Board shall be composed of an equal number of members from each State which is a member of the Board. The Board shall prescribe its own rules for organization, practice and procedure for carrying out the functions assigned by this section.

(e) TRANSMISSION REGULATION.—

(1) If a Regional Transmission Oversight Board is formed, it shall have the same authority as the Commission has pursuant to sections 205, 206, 211, and 212 of the Federal Power Act (16 U.S.C. 824d, 824e, 824j, and 824k), as amended by this Act, with respect to the transmission of electric energy in interstate commerce by the Independent System Operator within the transmission region designated by the Commission. Any actions taken by such Board pursuant to this subsection shall be consistent with Commission precedent.

(2) If a Regional Transmission Oversight Board is not formed for a particular region, the Commission shall continue to have authority over the transmission of electric energy in interstate commerce by the Independent System Operator within the transmission region designated by the Commission.

(3) The Commission shall have authority over the transmission of electric energy in interstate commerce between two or more transmission regions designated by the Commission.

(4) Section 212(f) of the Federal Power Act (16 U.S.C. 824k(f) shall be repealed on the date the Tennessee Valley Authority becomes a retail electric energy supplier.

(5) Section 212(g) of the Federal Power Act (16 U.S.C. 824k(g) is amended by adding "prior to December 15, 2003" immediately following "utilities".

(6) The prohibition outlined by section 212(h) of the Federal Power Act (16 U.S.C. 824k(h)) shall be inapplicable either:

(A) in any situation where a retail electric energy supplier is seeking access to a transmission facility for the purpose of selling retail electric energy to a consumer located in a State that has authorized retail electric competition prior to December 15, 2003; or

(B) in all cases beginning on December 15, 2003.

(f) RULES.—On or before January 1, 2002, the Commission shall issue binding rules for it and the various Regional Transmission Boards, governing oversight of the Independent System Operators, designed to promote transmission reliability and efficiency and competition among retail and wholesale electric energy suppliers, including rules related to transmission rates that inhibit competition and efficiency.

**SEC. 112. CROSS-SUBSIDIZATION.**

Nothing in this Act is intended to permit retail electric energy providers from recovering in its distribution and retail transmission rates any costs associated with unregulated activities.

**SEC. 113. COMPETITIVE GENERATION MARKETS.**

(a) MERGERS.—

(1) Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) is amended by adding "including the promotion of competitive wholesale and retail electric generation markets," immediately following "public interest".

(2) Add the following new subsections at the end of section 203 of the Federal Power Act (16 U.S.C. 824b):

"(c) ACQUISITION OF NATURAL GAS UTILITY COMPANY.—No public utility shall acquire the facilities or securities of a natural gas utility company unless the Commission finds that such acquisition is in the public interest.

"(d) DEFINITION.—For purposes of this section, the term "natural gas utility company" means any company that owns or operates facilities used for the transmission at wholesale, or the distribution at retail (other than the distribution only in enclosed portable containers) of natural or manufactured gas for heat, light, or power.

(b) MARKET POWER.—The Commission shall take such actions as it determines are necessary to prohibit any retail electric energy supplier or retail electric energy provider or any affiliate thereof, from using its ownership or control of resources to maintain a situation inconsistent with effective competition among retail and wholesale electric suppliers.

**SEC. 114. NUCLEAR DECOMMISSIONING COSTS.**

To ensure safety with regard to the public health and safe decommissioning of nuclear generating units, retail and wholesale electric energy suppliers and retail electric energy providers owning nuclear generating units prior to the date of enactment of this Act shall be entitled and obligated to recover, from their customers, all reasonable costs associated with Federal and State requirements for the decommissioning of such nuclear generating units.

**SEC. 115. TENNESSEE VALLEY AUTHORITY.**

(a) COMPETITION IN SERVICE TERRITORY.—Notwithstanding any other provision of law, all retail and wholesale electric energy suppliers shall have the right to sell retail and wholesale electric energy to consumers that currently purchase retail or wholesale electric energy either directly from the Tennessee Valley Authority or persons purchasing electric energy from the Tennessee Valley Authority, beginning on December 15, 2003 or, if the Tennessee Valley Authority, in its capacity as a State regulatory authority, chooses an earlier date, such earlier date.

(b) ABILITY TO SELL ELECTRIC ENERGY.—Notwithstanding any other provision of law, the Tennessee Valley Authority shall be able to sell retail electric energy and wholesale electric energy to any person, subject to any State restrictions imposed pursuant to section 105 of this Act, beginning on the date retail electric competition in the Authority's service territory, as described in subsection (a), become effective.

(c) PROTECTION OF U.S. TREASURY.—This section shall be inapplicable if the Secretary of Energy, in consultation with the Office of Management and Budget, determines that the application of this section is contrary to the financial interest of the United States.

**SEC. 116. ENFORCEMENT.**

(a) VIOLATION OF THE ACT.—If any individual or corporation or any other retail electric energy supplier or provider fails to comply with the requirements of this Act, any aggrieved person may bring an action against such entity to enforce the requirements of this Act in the appropriate Federal district court.

(b) STATE OR COMMISSION ACTION.—Notwithstanding any other provision of law, any person seeking redress from an action taken by a State Regulatory Authority, the Commission or a regulatory board pursuant to this Act shall bring such action in the appropriate circuit of the United States Court of Appeals.

## TITLE II—PUBLIC UTILITY HOLDING COMPANIES

**SEC. 201. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.**

The Public Utility Holding Company Act of 1935, as amended, 15 U.S.C. 79 et seq., is hereby repealed, effective one year from the date of enactment of this Act.

**SEC. 202. DEFINITIONS.**

For purposes of this title:

(1) The term "person" means an individual or company.

(2) The term "company" means a corporation, joint stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing.

(3) The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission or distribution of electric energy for sale.

(4) The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers) of natural or manufactured gas for heat, light or power.

(5) The term "public utility company" means an electric utility company or gas utility company but does not mean a qualifying facility as defined in the Public Utility Regulatory Policies Act of 1992, or an exempt wholesale generator or a foreign utility company defined by the Energy Policy Act of 1992.

(6) The term "public utility holding company" means (A) any company that directly or indirectly owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of a public utility

company or of a holding company of any public utility company; and (B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility or holding company as to make it necessary or appropriate for the protection of consumers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed in this title upon holding companies.

(7) The term "subsidiary company" of a holding company means (A) any company 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and (B) any person the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the protection of consumers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed in this title upon subsidiary companies of holding companies.

(8) The term "holding company system" means a holding company together with its subsidiary companies.

(9) The term "associate company" of a company means any company in the same holding company system with such company.

(10) The term "affiliate" of a company means any company 5 percent or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by a company.

(11) The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

(12) The term "Commission" means the Federal Energy Regulatory Commission.

(13) The term "State Commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that under the law of such State has jurisdiction to regulate public utility companies.

**SEC. 203. EXEMPTIONS.**

(A) FEDERAL AND STATE AGENCIES.—No provision of this title shall apply to: (1) the United States, (2) a State or any political subdivision of a State, (3) any foreign governmental authority not operating in the United States, (4) any agency, authority, or instrumentality of any of the foregoing, or (5) any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty.

(b) UNNECESSARY PROVISIONS.—The Commission, by rule or order, may conditionally or unconditionally exempt any person or transaction, or any class or classes of persons or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, if the Commission finds that regulation of such person or transaction is not relevant to the rates of a public utility company. The Commission shall not grant such an exemption, except with regard to section 204 of this Act, unless all affected State commissions consent.

(c) RETAIL COMPETITION.—The provisions of this title shall not apply to a holding company and every associate company of such holding company if the Commission certifies that the retail customers of every public utility subsidiary of such holding company have access to alternative sources of electricity in a manner that no longer requires regulation of the holding company for the protection of consumers.

**SEC. 204. FEDERAL ACCESS TO BOOKS AND RECORDS.**

(a) PROVISION OF BOOKS AND RECORDS.—Every holding company and associate company thereof shall maintain, and make available to the Commission, such books, records, accounts, and other documents as the Commission deems relevant to costs incurred by a public utility company that is an associate company of such holding company and necessary or appropriate for the protection of consumers with respect to rates.

(b) EXAMINATION OF BOOKS AND RECORDS.—The Commission may examine the books and records of any company in a holding company system, or any affiliate thereof, as the Commission deems relevant to costs incurred by a public utility company within such holding company system and necessary or appropriate for the protection of consumers with respect to rates.

(c) PROTECTED INFORMATION.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his knowledge during the course of examination of books, accounts, or other information as hereinbefore provided, except insofar as he may be directed by the Commission or by a court.

**SEC. 205. STATE ACCESS TO BOOKS AND RECORDS.**

(a) PROVISION OF BOOKS AND RECORDS.—Every holding company and associate company thereof, shall maintain, and make available to each State Commission regulating the rates of any public utility subsidiary of such holding company, such books, records, accounts, and other documents as the State Commission deems relevant to costs incurred by a public utility company that is an associate company of such holding company and necessary or appropriate for the protection of consumers with respect to rates.

(b) PROTECTED INFORMATION.—No member, officer, or employee of a State Commission shall divulge any fact or information that may come to his knowledge during the course of examination of books, accounts, or other information as hereinbefore provided, except insofar as he may be directed by the State Commission or a court.

**SEC. 206. AFFILIATE TRANSACTIONS.**

(a) INTERAFFILIATE TRANSACTIONS.—Both the Commission, with regard to wholesale rates, and State Commissions, with regard to retail rates, shall have the authority to determine whether a public utility company may recover in rates any costs of goods and services acquired by such public utility company from an associate company after July 1, 1994, regardless of when the contract for the acquisition of such goods and services was entered into.

(b) ASSOCIATE COMPANIES.—Both the Commission, with regard to wholesale rates, and State Commissions, with regard to retail rates, shall have the authority to determine whether a public utility company may recover in rates any costs associated with an activity performed by an associate company.

(c) INTERAFFILIATE POWER TRANSACTIONS.—

(1) Each State Commission shall have the authority to examine the prudence of a wholesale electric power purchase made by a public utility, which is not an associate company of a public utility holding company, providing retail electric service subject to regulation by the State Commission.

(2) Each State Commission shall have the authority to examine the prudence of a wholesale electric power purchase made by a public utility, which is an associate company of a public utility holding company, providing retail electric service subject to regulation by the State Commission, provided that the costs related to such purchase have not been allocated among two or more associated companies of such public utility holding company, by the Commission prior to the date of enactment and there is no subsequent reallocation after the date of enactment.

**SEC. 207. CLARIFICATION OF REGULATORY AUTHORITY.**

No public utility which is an associate company of a holding company may recover in rates from wholesale or retail customers any costs not associated with the provision of electric service to such customers, including those direct and indirect costs related to investments not associated with the provision of electric service to those customers, unless the Commission, with regard to wholesale rates, or a State Commission, with regard to retail rates, explicitly consents.

**SEC. 208. EFFECT ON OTHER REGULATION.**

Nothing in this Act shall preclude a State Commission from exercising its jurisdiction under otherwise applicable law to protect utility consumers.

**SEC. 209. ENFORCEMENT.**

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825d–825p) to enforce the provisions of this Act.

**SEC. 210. SAVINGS PROVISION.**

Nothing in this title prohibits a person from engaging in activities in which it is legally engaged or authorized to engage on the date of enactment of this title provided that it continues to comply with the terms of any authorization, whether by rule or by order.

**SEC. 211. IMPLEMENTATION.**

The Commission shall promulgate regulations necessary or appropriate to implement this title not later than six months after the date of enactment of this title.

**SEC. 212. RESOURCES.**

All books and records that relate primarily to the function hereby vested in the Commission shall be transferred from the Securities and Exchange Commission to the Commission.

## TITLE III—PUBLIC UTILITY REGULATORY POLICIES ACT

**SEC. 301. DEFINITION.**

For purposes of this title, the term "facility" means a facility for the generation of electric energy or an addition to or expansion of the generating capacity of such a facility.

**SEC. 302. FACILITIES.**

Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) shall not apply to any facility which begins commercial operation after the effective date of this title, except a facility for which a power purchase contract entered into under such section was in effect on such effective date.

**SEC. 303. CONTRACTS.**

After the effective date of this title or after the date on which retail electric competition, as defined in title I of this Act, is implemented in all of its service territories, whichever is earlier, no public utility shall be required to enter into a new contract or obligation to purchase or sell electric energy pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978.

**SEC. 304. SAVINGS CLAUSE.**

Notwithstanding sections 302 and 303, nothing in this title shall be construed:

(a) as granting authority to the Commission, a State regulatory authority, electric utility, or electric consumer, to reopen, force, the renegotiation of, or interfere with the enforcement of power purchase contracts or arrangements in effect on the effective date of this Act between a qualifying small power producer and any electric utility or electric consumer, or any qualifying cogenerator and any electric utility or electric consumer.

(b) To affect the rights and remedies of any party with respect to such a power purchase contract or arrangement, or any requirement in effect on the effective date of this Act to purchase or to sell electric energy from or to a qualifying small power production facility or qualifying cogeneration facility.

**SEC. 305. EFFECTIVE DATE.**

This title shall take effect on December 15, 2003.

**TITLE IV—ENVIRONMENTAL PROTECTION**

**SEC. 401. STUDY.**

The Environmental Protection Agency, in consultation with other relevant Federal agencies, shall prepare and submit a report to Congress by January 1, 2000, which examines the implications of differences in applicable air pollution emissions standards for wholesale and retail electric generation competition and for public health and the environment. The report shall recommend changes to Federal law, if any are necessary, to protect public health and the environment.

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ELECTRIC CONSUMERS PROTECTION ACT OF 1997—SECTION-BY-SECTION ANALYSIS

TITLE I—RETAIL COMPETITION

*Section 101—Definitions*

*Section 102—Mandatory Retail Access*

All consumers (including current customers of investor-owned, municipal and rural cooperative electric utilities) have the right to purchase retail electric energy beginning on December 15, 2003.

All retail electric energy suppliers (entities selling retail electric energy) have access to local distribution and retail transmission facilities beginning on December 15, 2003.

*Section 103—Aggregation*

A group of consumers or any entity acting on behalf of such group is authorized to aggregate to purchase retail electric energy for the members of the group if they live in a State where retail electric competition exists.

*Section 104—Prior Implementation*

States may require retail electric competition prior to January 1, 2003.

Municipal electric utilities and rural electric cooperative utilities (not regulated by State regulatory authorities) may provide for retail electric competition in their service territories prior to December 15, 2003.

If a State enacted legislation or imposed a regulation prior to January 30, 1997, which requires retail electric competition prior to December 15, 2003, the legislation or regulation is deemed consistent with the mandatory retail access and stranded costs sections of the Act.

*Section 105—State Regulation*

States may impose requirements on retail electric energy suppliers to protect the public interest.

No class of potential retail electric energy suppliers can be excluded from selling retail electric energy.

States may continue to regulate local distribution and retail transmission service provided by retail electric energy providers (local distribution companies).

*Section 106—Stranded Cost Recovery*

A utility providing retail electric service subject to State regulation prior to the date of enactment, which is seeking recovery of its stranded costs, must request the State regulatory authority to calculate the amount of its stranded costs associated with the implementation of retail competition.

If the State regulatory authority agrees to calculate the utility's stranded costs it has two options: A. Determine the level of the utility's legitimate, prudently incurred and verifiable investments in generating assets and related regulatory assets that can't be mitigated; or B. require the utility to sell all of its generating facilities and then subtract the revenue received from the book value of the assets sold.

If the State does not calculate the stranded costs, FERC must require the utility to sell its generating facilities in order to calculate stranded costs.

A municipal electric utility or a rural electric cooperative not subject to regulation by a State regulatory authority may calculate its own stranded costs through either method authorized for State regulatory authorities calculating regulated utility stranded costs.

Once a utility has had its stranded costs calculated, it is entitled to recover such costs from its retail customers taking distribution or retail transmission service pursuant to a nonbypassable Stranded Cost Recovery Charge.

No class of customers (such as a utility's residential customers) can be required to pay a Stranded Cost Recovery Charge in excess of its proportional responsibility for utility costs prior to the implementation of retail electric competition.

*Section 107—Multistate Utility Company Stranded Costs*

Customers served by utility companies operating in more than one state either directly or through an affiliate are only responsible for stranded costs arising from retail electric competition in the State they reside.

All of the states regulating utility subsidiaries of a multistate utility holding company may form a regional board to calculate the stranded costs of a wholesale electric supplier subsidiary of the holding company that does not sell any retail electric energy and to allocate such costs among the utility subsidiaries of the holding company.

If the regional board is not formed or if the members of the regional board fail to produce a consensus on either determination required of the board, FERC shall perform the board's responsibilities.

Once the wholesale subsidiary's stranded costs have been determined, the subsidiary is entitled to recover such costs from its affiliated utility companies in the manner allocated by the board or FERC and the utility companies are entitled to recover such costs from its customers.

*Section 108—Universal Service*

If, after December 15, 2003, a State regulatory authority determines that a consumer does not have sufficient access to competing retail electric energy suppliers, the retail electric energy provider is obligated to sell power to or purchase power on behalf of the consumer.

The retail electric energy provider is entitled to just and reasonable compensation for the service performed.

States may impose a nonbypassable Universal Service Charge on distribution and retail transmission consumers to help pay for the retail electric energy provider's compensation.

*Section 109—Public Benefits*

States are not prohibited by the Act from imposing charges on retail electric energy consumers to fund public benefit programs (i.e. low-income and energy efficiency).

*Section 110—Renewable Energy*

Beginning in 2003, all retail electric energy suppliers are required to either (1) sell at least a minimum amount of renewable energy as part of the total amount of energy it sells or (2) purchase credits from retail electric energy suppliers that sell renewable energy in excess of the minimum requirements.

One-half of one Renewable Energy Credit will be provided to retail electric energy suppliers selling power generated from a large hydroelectric facility (more than 80 MW). One Renewable Energy Credit will be provided to retail electric energy suppliers selling power generated at all other renewable electric facilities built prior to the date of enactment. Two Renewable Energy Credits will be provided to retail electric energy suppliers selling power generated at all other renewable electric facilities built subsequent to the date of enactment.

Retail electric energy suppliers are required to have Credits worth 5% of its generation beginning in 2003, 9% of its generation beginning in 2008 and 12% of its generation beginning in 2013.

The requirements of this section expire on December 31, 2019.

*Section 111—Transmission*

Within two years of the date of enactment FERC must establish transmission regions and designate an Independent System Operator (ISO) to manage and operate all of the transmission facilities in each region beginning on December 15, 2003.

The ISO can't be affiliated with any person owning transmission facilities in the region or any retail electric energy supplier selling retail energy in the region.

The States making up a particular transmission region can form a Regional Transmission Oversight Board to oversee the ISO. If the Board is formed, it shall have the same authority FERC currently has over transmission pursuant to the Federal Power Act. If the Board is not formed; FERC shall retain authority.

FERC is required to issue rules by January 1, 2002 applicable to its and the Board's oversight of the ISOs to promote transmission reliability and efficiency and competition among retail and wholesale electric energy suppliers.

The Federal Power Act prohibition on FERC requiring transmission access for the purposes of retail wheeling is repealed on January 1, 2003 or at an earlier date for a particular retail wheeling request in a State that has retail electric competition prior to December 15, 2003.

*Section 112—Cross-Subsidization*

Retail electric energy providers are not authorized by this Act to recover costs related to unregulated activities in the rates it charges for retail transmission and distribution services.

*Section 113—Competitive Generation Markets*

FERC's authority over utility mergers pursuant to the Federal Power Act is extended to electric utility mergers with natural gas utility companies.

FERC review of mergers must take into account the impact of a merger on competitive

wholesale and retail electric generation markets.

FERC has authority to take actions necessary to prohibit retail electric energy suppliers and providers from using their control of resources to inhibit retail and wholesale electric competition.

*Section 114—Nuclear Decommissioning Costs*

Utilities owning nuclear power plants prior to the date of enactment are entitled to recover costs to fund decommissioning of the plants from their customers.

*Section 115—Tennessee Valley Authority*

Beginning on December 15, 2003 (or an earlier date if it so decides) the Tennessee Valley Authority (TVA) can sell retail and wholesale electric energy outside of its service territory and its retail and wholesale customers can buy energy from other sellers.

If the Secretary of Energy, in consultation with OMB, determines that this section would be contrary to the financial interest of the U.S., the section shall not be applicable.

*Section 116—Enforcement*

All aggrieved persons may bring actions in U.S. District Court to enforce a provision of the Act against individuals, corporations and other retail electric energy providers and suppliers.

An appeal of a decision made by FERC or a State regulatory authority shall be filed in a U.S. Circuit Court of Appeals.

TITLE II—PUBLIC UTILITY HOLDING COMPANIES

*Section 201—Repeal of PUHCA*

PUHCA is repealed one year from the date of enactment of the Act.

*Section 202—Definitions*

*Section 203—Exemptions*

The title does not apply to federal or state agencies or foreign governmental authorities not operating in the U.S.

FERC may exempt anyone from any of the requirements of the title if the Commission finds the particular regulation not relevant to public utility company rates and the affected States consent.

The provisions of the title don't apply to a particular holding company when retail electric competition exists in the service territory of each utility subsidiary of the holding company.

*Section 204—Federal Access to Books and Records*

Each holding company and associate company of the holding company must make its books and records available to FERC.

*Section 205—State Access to Books and Records*

Each holding company and associate company of the holding company must make its books and records available to each State regulatory authority regulating a utility subsidiary of the holding company.

*Section 206—Affiliate Transactions*

FERC, with regard to wholesale rates and States, with regard to retail rates, have the authority to determine whether a public utility affiliate of a holding company may recover its costs associated with a non-power transaction with an affiliated company if such costs arose after July 1, 1994.

State regulatory authorities have the authority to review the prudence of a utility's wholesale power purchases from non-affiliated sellers.

State regulatory authorities have the authority to review the prudence of a utility's wholesale power purchase from an affiliated seller in the same holding company system unless FERC has allocated the costs of the purchase among two or more utility subsidiaries of the holding company prior to the date of enactment and there is no subsequent reallocation.

*Section 207—Clarification of Regulatory Authority*

FERC, with regard to wholesale rates, and State regulatory authorities, with regard to retail rates, must explicitly consent, before a utility affiliate of a utility holding company can recover costs in rates that are not directly related to the provision of electric service to its customers.

*Section 208—Effect on Other Regulation*

State regulatory authorities can exercise their jurisdiction under otherwise applicable law to protect utility consumers.

*Section 209—Enforcement*

FERC has the same enforcement authority under this title as it does under the Federal Power Act.

*Section 210—Savings Provision*

A person engaging in an activity it was legally entitled to engage in on the date of enactment may continue to be entitled to engage in the activity.

*Section 211—Implementation*

FERC must promulgate regulations to implement the title within 6 months of the date of enactment.

*Section 212—Resources*

The SEC must transfer its books and records related to holding company regulation to the FERC.

TITLE III—PUBLIC UTILITY REGULATORY POLICIES ACT

*Section 301—Definition*

*Section 302—Facilities*

Section 210 of PURPA doesn't apply to facilities beginning commercial operation after the effective date of the title unless the power purchase contract related to the facility was in effect on the effective date.

*Section 303—Contracts*

Public utilities are no longer required to enter into new purchase contracts under Section 210 of PURPA once there is retail electric competition in their service territories.

*Section 304—Savings Clause*

This title does not affect existing power purchase contracts under PURPA.

*Section 305—Effective Date*

The effective date of the title is December 15, 2003.

TITLE IV—ENVIRONMENTAL PROTECTION

*Section 401—Study*

EPA must submit a study to Congress by January 1, 2000 which examines the implications of wholesale and retail electric competition on the emission of pollutants and recommends and changes to law, if any are necessary, to protect public health and the environment.

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By Mr. GRAMS (for himself and Mr. GRAHAM):

S. 238. A bill to amend title XVIII of the Social Security Act to ensure Medicare reimbursement for certain ambulance services, and to improve the efficiency of the emergency medical system, and for other purposes; to the Committee on Finance.

THE EMERGENCY MEDICAL SERVICES EFFICIENCY ACT

Mr. GRAMS. Mr. President, I have come to the floor today, with the support of my colleague from Florida, Senator GRAHAM, to introduce an important health care proposal that is designed to improve our emergency medical system and to ultimately benefit our constituents who depend on these services. The area is one I believe has not received the attention that it deserves.

In a nation where some 268,000 Americans turn to the 911 emergency response system for help every single day, our population relies on the readiness, efficiency and the quick response of our emergency medical system. It is something on which the American people have come to depend, a service we nearly take for granted. We don't know when we need it, but we want it to work well when we do. The men and women who risk their lives in delivering emergency care are true heroes, yet their desire to improve the services they provide is rarely recognized by Congress.

The nightly news is filled with the stories of local emergency response problems. You may recall the tragedy in Philadelphia in 1994 when a young boy died on the steps of his church after being beaten. It took police 40 minutes to respond after the first 911 call was received.

Here in the District of Columbia, some residents have waited for more than 25 minutes before an ambulance responded to their 911 medical emergency. Far too often, Congress fails to respond until there is a national crisis, but we can't afford to wait for a crisis to occur before we respond to the needs of our emergency medical system. Patients' lives are at risk if Congress doesn't begin to help the system become more efficient.

Currently, emergency medical service providers are not consulted when Washington is formulating national policy which affects their ability to respond in a timely and in an efficient manner, and there is no coordinated Government focus on EMS, no collection of national data and statistics which I believe would help Congress and the administration develop more effective policies to help improve EMS.

Furthermore, there is no lead EMS agency to provide guidance and direction to Congress and the States when implementing Federal policies concerning Medicare reimbursement issues, emergency management planning, or the effect of Federal regulations on EMS providers. This lack of coordination often negatively impacts providers of EMS and our constituents who rely upon them.

Later this year, Congress will be reauthorizing the Intermodal Surface Transportation Efficiency Act, for which its supporters will be asking for $26 billion in transportation spending, and yet the emergency medical services communities will likely not have a voice in improving our transportation

system. That is the very system they depend upon to ensure that when they are dispatched to a patient in need of emergency medical services, the highway design or newest technologies will allow them to respond quickly and efficiently. EMS providers need a seat at the table.

I find it ironic that we expect so much from our EMS system and yet, when they seek assistance, we continue to ignore their 911 call for help.

That is why I am today introducing the Emergency Medical Services Efficiency Act of 1997. My legislation sets out a blueprint for responding to the needs of our emergency medical system and begins to address just a few of their concerns Washington has long ignored.

First, the Grams-Graham bill will require Medicare to reimburse for ambulance services provided for emergency medical care based on the original diagnosis by a prudent layperson, instead of the ultimate diagnosis determined by health professionals in the emergency room.

Mr. President, the division of emergency medical services for the city of St. Paul, MN, prepared a list for me of just some of their 1996 emergency ambulance transports that began as a 911 call for help, but were eventually denied payment by Medicare.

Among the cases where payment was denied include a 79-year-old female, on several prescription medications, who had fallen in the night and was suffering from vertigo; a 72-year-old male, on numerous prescription medications, who had fallen on the sidewalk, had lacerations on his arm, a cut over his right eye, and was confused; and also a 95-year-old female who awoke confused and weak, possibly suffering from a stroke.

In each of these incidents, emergency services personnel responded to what they believed to be medical emergencies. Even though the cases were ultimately ruled nonemergencies, the EMS providers should have been reimbursed by Medicare for the emergency transport service that they provided.

As Joseph A. Grafft, EMS Manager for the FIRE/EMS Center at Metropolitan State University in St. Paul noted in a letter to me, "Ambulance providers are not physicians and do not diagnose patients. They deal with presenting symptoms and give care based on these symptoms. The physicians diagnose and make the final determination. Ambulance providers should not be penalized for doing their job."

Our bill ensures that Medicare reimbursements are based on the original diagnoses of the 911 callers. At the same time, we do not seek reimbursements for medical conditions that are clearly not life-threatening.

Second, our bill establishes two separate advisory councils comprised of emergency service providers and others. The first will advise the Health Care Financing Administration on issues pertaining to Medicare reimbursement. The second advisory council will make recommendations to the administration and Congress in regard to improving the efficiency and coordination of our emergency medical system.

Third, our bill will designate a lead-EMS agency, to be established at the direction of the Secretary of Transportation in consultation with the Secretary of Health and Human Services. The Secretary will make recommendations to Congress as to which functions should be transferred to the Transportation Department in order to streamline and coordinate the EMS system.

Finally, our bill directs the Secretary of Transportation to establish a national database for the collection of statistics relating to the delivery of emergency medical services within our national transportation system and national emergency response system.

The Secretary will set forth the appropriate criteria for national data collection in consultation with State EMS agencies to ensure the least burdensome data collection reporting procedures. We would hope this database could be tied to an existing data collection system.

I believe these four provisions will begin to address a few of the needs that the EMS community has brought to my attention. This bill will allow Congress, the President, as well as State and local officials to have the resources and also the facts they need to make necessary improvements in emergency medical care to patients.

Dr. Daniel Hankins, president of the Minnesota Chapter of the American College of Emergency Physicians, made that point eloquently in a recent letter to me. He said, "For too long EMS has been forgotten when health care legislation has been proposed."

He went on to say, "EMS is a small, but crucial part of the overall health care system. It is in most rural areas the only lifeline for access into emergency care. It is a fragile safety net . . . that is only held together by the dedication of the many volunteers that comprise the EMS system."

Mr. President, I am pleased that I am joined today by the senior Senator from the State of Florida in the introduction of this legislation. We are proud to have a large number of organizations—organizations dedicated to improving emergency medical care—supporting our legislation.

I ask unanimous consent that a complete list of these organizations be printed in the RECORD.

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

LIST OF ORGANIZATIONS SUPPORTING THE EMERGENCY MEDICAL SERVICES EFFICIENCY ACT

(1) Minnesota Ambulance Association.
(2) Minnesota Air Medical Council.
(3) Healthspan Transportation.
(4) Lifelink III.
(5) Minnesota Emergency Medical Services Association.
(6) South Central Minnesota Emergency Medical Services Program.
(7) Minnesota Chapter, College of Emergency Physicians.
(8) Gold Cross Ambulance Service.
(9) North Memorial Health Care.
(10) Minnesota Hospital and Healthcare Partnership.
(11) West Central Minnesota Emergency Medical Services Program.

Mr. GRAMS. Thank you, Mr. President. The Emergency Medical Services Efficiency Act is not the answer to all of the problems. But it is the first step in addressing the concerns of a very important segment of both our health care and transportation systems. This bill is a blueprint for further improvements in emergency medical services to help all Americans.

By introducing today's legislation early in the session, it is my hope that we will call attention to the needs of EMS providers and move forward to a more comprehensive bill, one that addresses additional concerns that are equally important to the EMS community as those we have addressed here today.

Over the next few weeks, I will be working with EMS providers in Minnesota and throughout the country to look at improving four key areas: regulatory oversight, technology improvements in medicine and transportation, insurance reimbursement issues, and the EMS functions which should be transferred and streamlined under the Department of Transportation.

Senator GRAHAM has worked tirelessly to ensure that the definition of "prudent layperson" apply not only to ambulance service but also to care provided at emergency departments. In our second bill, it is our intent to include Senator GRAHAM's new language to ensure that patients are not denied reimbursement for emergency care because they failed to obtain proper certification or authorization from their insurance provider. I look forward to working with the American Association of Health Plans, which today announced new policies to clarify how health plans should cover emergency care, in developing an appropriate legislative solution.

The legislation we introduce today and our subsequent work will be part of an ongoing effort we hope to include in the newly drafted Rural Health Improvement Act. This important overall effort, in which I have also been involved, will help ensure that rural areas are not overlooked in our desire to improve health care delivery.

So finally, Mr. President, I look forward to working with Senator GRAHAM, Senator THOMAS, and others in the months and weeks ahead to improve emergency medical services for patients and providers and ensure the

most efficient use of scarce tax dollars. The American people expect—and of course deserve—nothing less.

Thank you very much, Mr. President.

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. 238

*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 "Emergency Medical Services Efficiency Act of 1997".

**TITLE I—MEDICARE COVERAGE OF CERTAIN AMBULANCE SERVICES**

**SEC. 101. MEDICARE COVERAGE OF CERTAIN AMBULANCE SERVICES.**

(a) COVERAGE.—Section 1861(s)(7) of the Social Security Act (42 U.S.C. 1395x(s)(7)) is amended by striking "regulations;" and inserting "regulations, except that such regulations shall not fail to treat ambulance services as medical and other health services solely because the ultimate diagnosis of the individual receiving the ambulance services results in the conclusion that ambulance services were not necessary, as long as the request for ambulance services is made after the sudden onset of a medical condition that is manifested by symptoms of such sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect to result, without immediate medical attention, in—

"(A) placing the individual's health in serious jeopardy;

"(B) serious impairment to the individual's bodily functions; or

"(C) serious dysfunction of any bodily organ or part of the individual;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services provided on or after the date of enactment of this Act.

**TITLE II—AMBULANCE SERVICES ADVISORY GROUP FOR THE HEALTH CARE FINANCING ADMINISTRATION**

**SEC. 201. ESTABLISHMENT OF ADVISORY GROUP.**

(a) ESTABLISHMENT.—There is established an advisory group to be known as the Health Care Financing Administration Advisory Group for Ambulance Services (in this title referred to as the "Advisory Group").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Advisory Group shall be composed of 17 members of whom—

(A) 1 shall be appointed by the Director of each of the 10 operating districts within the National Highway and Traffic Safety Administration;

(B) 1 shall be appointed by the President;

(C) 2 shall be appointed by the Administrator of the Health Care Financing Administration;

(D) 1 shall be appointed by the Majority Leader of the Senate;

(E) 1 shall be appointed by the Minority Leader of the Senate;

(F) 1 shall be appointed by the Speaker of the House of Representatives; and

(G) 1 shall be appointed by the Minority Leader of the House of Representatives.

(2) INCLUSION OF CERTAIN DISCIPLINES ON ADVISORY GROUP.—In making appointments of members under paragraph (1), the appointing officials described in each subparagraph of that paragraph shall consult and collaborate with each other in order to ensure that the following groups are represented on the Advisory Group:

(A) Physicians who provide emergency medical services.

(B) Individuals who provide emergency ground and air transport services.

(C) Volunteer, private, and public emergency medical service providers.

(D) Trauma care providers.

(E) Patient's rights advocates.

(3) BACKGROUND.—Except in the case of a member of the Advisory Group described in paragraph (2)(E), any member of the Advisory Group appointed under paragraph (1) should have significant experience with the provision of ambulance services under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) DATE.—The appointments of the members of the Advisory Group shall be made not later than January 1, 1998.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for a term of 4 years. Any vacancy in the Advisory Group shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Advisory Group have been appointed, the Advisory Group shall hold its first meeting.

(e) MEETINGS.—The Advisory Group shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Advisory Group shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Advisory Group shall select a Chairperson and Vice Chairperson from among its members.

**SEC. 202. DUTIES OF THE ADVISORY GROUP.**

(a) STUDY.—The Advisory Group shall conduct a thorough study of all matters relating to the provision of ambulance services under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), which shall include matters relating to the reimbursement of such services under the medicare program.

(b) RECOMMENDATIONS.—The Advisory Group shall develop recommendations regarding the improvement of all matters relating to the provision of ambulance services under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(c) REPORT.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Advisory Group shall submit a report to the Administrator of the Health Care Financing Administration which shall contain a detailed statement of the results of the matters studied by the Advisory Group pursuant to subsection (a), together with the Advisory Group's recommendations formulated pursuant to subsection (b).

**SEC. 203. POWERS OF THE ADVISORY GROUP.**

(a) HEARINGS.—The Advisory Group may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Advisory Group considers necessary to carry out the purposes of this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Advisory Group may secure directly from any Federal department or agency such information as the Advisory Group considers necessary to carry out the provisions of this title. Upon request of the Chairperson of the Advisory Group, the head of such department or agency shall furnish such information to the Advisory Group.

(c) POSTAL SERVICES.—The Advisory Group may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Advisory Group may accept, use, and dispose of gifts or donations of services or property.

**SEC. 204. ADVISORY GROUP PERSONNEL MATTERS.**

(a) COMPENSATION OF MEMBERS.—Members of the Advisory Group shall receive no additional pay, allowances, or benefits by reason of their service on the Advisory Group.

(b) TRAVEL EXPENSES.—The members of the Advisory Group shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Advisory Group.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Advisory Group may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Advisory Group to perform its duties. The employment of an executive director shall be subject to confirmation by the Advisory Group.

(2) COMPENSATION.—The Chairperson of the Advisory Group may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Advisory Group without compensation in addition to that received for service as an employee of the United States, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Advisory Group may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

**SEC. 205. FUNDING.**

The Secretary of Health and Human Services shall provide to the Advisory Group, out of funds otherwise available to such Secretary, such sums as are necessary to carry out the purposes of the Advisory Group under this title.

**SEC. 206. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**

Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Group.

**TITLE III—FEDERAL ADVISORY COUNCIL FOR EMERGENCY AMBULANCE SERVICES**

**SEC. 301. DEFINITION.**

As used in this title, the term "emergency ambulance services"—

(1) means resources used by a qualified public, private, or nonprofit entity to deliver medical care under emergency conditions—

(A) that occur as a result of the condition of a patient; or

(B) that occur as a result of a natural disaster or similar situation; and

(2) includes services delivered by an emergency ambulance employee that is licensed or certified by a State as an emergency medical technician, a paramedic, a registered nurse, a physician assistant, or a physician.

**SEC. 302. ESTABLISHMENT OF ADVISORY COUNCIL.**

(a) ESTABLISHMENT.—There is established an advisory council to be known as the Federal Advisory Council for Emergency Ambulance Services (in this title referred to as the "Advisory Council").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Advisory Council shall be composed of 23 members, of whom—

(A) 1 shall be a member of the International Fire Chief's Association, appointed by the President from nominations submitted by the Executive Director of the International Fire Chief's Association;

(B) 1 shall be a member of the International Association of Firefighters, appointed by the President from nominations submitted by the general president of the International Association of Firefighters;

(C) 1 shall be a member of the American Ambulance Association, appointed by the President from nominations submitted by the executive vice president of the American Ambulance Association;

(D) 1 shall be a member of the National Association of Emergency Medical Services Physicians, appointed by the President from nominations submitted by the executive director of the National Association of Emergency Medical Services Physicians;

(E) 4 shall be appointed by the President, of whom—

(i) 1 shall be a representative of a volunteer ambulance service;

(ii) 1 shall be a representative of a hospital-based ambulance service;

(iii) 1 shall be a representative of a private ambulance service; and

(iv) 1 shall be a representative of an air ambulance service;

(F) 1 shall be an individual who is appointed by the Majority Leader of the Senate;

(G) 1 shall be an individual who is appointed by the Minority Leader of the Senate;

(H) 1 shall be an individual who is appointed by the Speaker of the House of Representatives;

(I) 1 shall be an individual who is appointed by the Minority Leader of the House of Representatives;

(J) 2 shall be employees of the Occupational Safety and Health Administration, appointed by the Secretary of Labor;

(K) 1 shall be an employee of the United States Coast Guard, appointed by the Secretary of Transportation;

(L) 2 shall be employees of the National Transportation Safety Board, appointed by the chairman of the National Transportation Safety Board;

(M) 2 shall be employees of the National Highway Traffic Safety Administration of the Department of Transportation, appointed by the Secretary of Transportation;

(N) 2 shall be employees of the Federal Emergency Management Agency, appointed by the Director of the Federal Emergency Management Agency; and

(O) 2 shall each be a member of a governing body of an Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) ADDITIONAL REQUIREMENTS.—

(A) GEOGRAPHICAL REPRESENTATION AND URBAN AND RURAL REPRESENTATION.—In making appointments of members under paragraph (1), the appointing officials described in such paragraph shall, through consultation and collaboration with each other, select—

(i) members who are geographically representative of the United States; and

(ii) members who are representative of rural areas and urban areas.

(B) SPECIAL RULE.—The appointing officials described in subparagraph (A) shall ensure that, of the members appointed—

(i) 11 shall be representative of rural areas;

(ii) 11 shall be representative of urban areas; and

(iii) 1 shall be representative of a rural area or an urban area, as provided for in subparagraph (C).

(C) ALTERNATE REPRESENTATION.—The appointing officials described in subparagraph (A) shall appoint members under subparagraph (B)(iii) by alternating between a member representing a rural area and a member representing an urban area.

(3) DATE.—The appointments of the members of the Advisory Council shall be made not later than January 1, 1998.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) PERIOD OF APPOINTMENT.—Members shall be appointed for a term of 4 years.

(2) VACANCY.—

(A) IN GENERAL.—Any vacancy in the Advisory Council shall not affect the powers of the Advisory Council, but shall be filled in the same manner as the original appointment.

(B) FILLING UNEXPIRED TERMS.—An individual chosen to fill a vacancy under this paragraph shall be appointed for the unexpired term of the member replaced.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Advisory Council have been appointed, the Advisory Council shall hold its first meeting.

(e) MEETINGS.—The Advisory Council shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Advisory Council shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Advisory Council shall select a Chairperson and Vice Chairperson from among the members of the Advisory Council.

**SEC. 303. DUTIES OF THE ADVISORY COUNCIL.**

(a) STUDY.—

(1) IN GENERAL.—The Advisory Council shall conduct a study of—

(A) the workplace conditions and safety requirements with regard to employees who provide emergency ambulance services, including a review of the emergency ambulance services regulations and standards promulgated by the Secretary of Labor through the Occupational Safety and Health Administration;

(B) the emergency management planning functions of the Federal Emergency Management Agency; and

(C) the transportation-related functions of the Department of Transportation related to the provision of emergency ambulance services, including—

(i) the functions carried out under the Intelligent Vehicle-Highway Systems Act of 1991 (part B of title VI of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240); and

(ii) any other issue related to the provision of emergency ambulance services that the Secretary of Transportation recommends for study by the Advisory Council.

(2) INTERPRETATION OF DATA.—As part of the study conducted under this subsection, the Advisory Council shall use and interpret the data collected by the Office of Emergency Medical Services Data Collection of the Department of Transportation established under section 402.

(b) RECOMMENDATIONS.—The Advisory Council shall develop recommendations with regard to—

(1) the improvement of workplace conditions of employees who provide emergency ambulance services;

(2) the appropriate application by the Occupational Safety and Health Administration of occupational safety and health standards and regulations to employees who are employed to provide emergency ambulance services; and

(3) addressing the issues, and improving the functions, referred to in subparagraphs (B) and (C) of subsection (a)(1).

(c) REPORT.

(1) SUBMISSION OF REPORT TO AGENCY OFFICIALS.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Advisory Council shall prepare and submit to the Secretary of Labor, the Secretary of Commerce, and the Director of the Federal Emergency Management Administration a report that includes—

(A) a detailed statement of the results of the matters studied by the Advisory Council under subsection (a); and

(B) the recommendations of the Advisory Council developed under subsection (b).

(2) SUBMISSION OF REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Advisory Council shall prepare and submit to the appropriate committees of Congress the report described in paragraph (2).

**SEC. 304. POWERS OF THE ADVISORY COUNCIL.**

(a) HEARINGS.—The Advisory Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Advisory Council considers necessary to carry out the purposes of this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Advisory Council may secure directly from any Federal department or agency such information as the Advisory Council considers necessary to carry out the provisions of this title. Upon request of the Chairperson of the Advisory Council, the head of such department or agency shall furnish such information to the Advisory Council.

(c) POSTAL SERVICES.—The Advisory Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Advisory Council may accept, use, and dispose of gifts or donations of services or property.

**SEC. 305. ADVISORY COUNCIL PERSONNEL MATTERS.**

(a) COMPENSATION OF MEMBERS.—Members of the Advisory Council shall receive no additional pay, allowances, or benefits by reason of the service of the members on the Advisory Council.

(b) TRAVEL EXPENSES.—The members of the Advisory Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the homes or regular places of business of the members in the performance of services for the Advisory Council.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Advisory Council may, without regard to the civil service laws and regulations, appoint

and terminate an executive director and such other additional personnel as may be necessary to enable the Advisory Council to perform the duties of the Advisory Council. The employment of an executive director shall be subject to confirmation by the Advisory Council.

(2) COMPENSATION.—The Chairperson of the Advisory Council may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Advisory Council without compensation in addition to that received for service as an employee of the United States, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Advisory Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

**SEC. 306. FUNDING.**

The Secretary of Labor, the Secretary of Commerce, and the Director of the Federal Emergency Management Agency shall provide to the Advisory Council, out of funds otherwise available to such agency heads, such sums as are necessary to carry out the purposes of the Advisory Council under this title.

**SEC. 307. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**

Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Council.

**TITLE IV—DATA COLLECTION AND ADMINISTRATION BY DEPARTMENT OF COMMERCE**

**SEC. 401. PROPOSAL FOR TRANSFER OF CERTAIN EMERGENCY MEDICAL SERVICES FUNCTIONS.**

(a) PROPOSAL.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Chairman of the National Transportation Safety Board, shall develop a proposal for transferring to the National Highway Traffic Safety Administration of the Department of Transportation any transportation-related functions of any other Federal agency concerning emergency medical services, other than the functions referred to in paragraph (2).

(2) EXCEPTIONS.—The proposal prepared under paragraph (1) shall not provide for the transfer of any function—

(A) of the Department of Defense; or

(B) related to a Federal health care program (including the medicare program under title 18 of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title 19 of the Social Security Act (42 U.S.C. 1396 et seq.)).

(b) REPORT.—Upon completion of the proposal under subsection (a), the Secretary of Transportation shall submit to Congress a report that contains the proposal, together with any legislative recommendations that the Secretary determines to be appropriate for carrying out the proposal.

**SEC. 402. ESTABLISHMENT OF THE OFFICE OF EMERGENCY MEDICAL SERVICES DATA COLLECTION.**

(a) ESTABLISHMENT.—There is established in the Department of Transportation an office to be known as the "Office of Emergency Medical Services Data Collection" (referred to in this section as the "Office"). The Office shall serve as a clearinghouse for data collected in accordance with the regulations promulgated under subsection (c).

(b) DIRECTOR.—The Secretary of Transportation shall appoint an individual to serve as the Director of the Office (referred to in this section as the "Director").

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Transportation, acting through the Director, and in consultation with the Secretary of Health and Human Services, the Chairman of the National Transportation Safety Board, and appropriate representatives of the agencies of States that have primary responsibility for regulating emergency medical services, shall promulgate regulations to establish a uniform data collection requirement concerning the collection, on a nationwide basis, of data relating to the provision of emergency medical services.

(2) USE OF EXISTING INFORMATION SERVICES.—In promulgating the regulations under this subsection, the Secretary of Transportation shall, to the maximum extent practicable, provide for the use of information services that are in existence at the time that the regulations are promulgated, including State data collection services.

(d) STATE DEFINED.—As used in this section, the term "State" means each of the several States of the United States, the District of Columbia, and the territories and possessions of the United States.

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By Mr. DASCHLE (for himself, Mr. JOHNSON, Mr. CONRAD, Mr. DORGAN, Mr. BAUCUS, Mr. HARKIN and Mr. KERREY):

S. 239. A bill to amend the Internal Revenue Code of 1986 relating to the treatment of livestock sold on account of weather related conditions; to the Committee on Finance.

INVOLUNTARY CONVERSION OF LIVESTOCK LEGISLATION

Mr. DASCHLE. Mr. President, today I am reintroducing legislation to provide equitable treatment under the tax law for farmers and ranchers who are forced to sell their livestock prematurely due to extreme weather conditions. I am joined in this effort by Senators JOHNSON, CONRAD, DORGAN, BAUCUS, and HARKIN.

The last few weeks have seen the most extreme winter weather of the century in the upper Midwest. Prolonged sub-zero temperatures and back-to-back blizzards continue to devastate herds of cattle and other livestock. An estimated 50,000 cattle have died since the beginning of the year, and countless thousands of other head of livestock are under extreme stress. The President declared the region a national disaster area on January 10.

A few summers ago, Midwestern States suffered severe floods, which devastated lives and property along these States' rivers and shorelines. President Clinton responded quickly by providing disaster assistance, $2.5 billion, including $1 billion for agriculture, in emergency aid to flooded areas in the Midwest.

In addition to receiving disaster payments, many farmers were able to take advantage of provisions in the Internal Revenue Code designed primarily to spread out the impact of taxes on farmers in these situations. Ironically, however, while farmers who lose their crops due to floods are covered under these provisions, farmers who must involuntarily sell livestock due to flood and other extreme weather conditions, are not.

Normally, a taxpayer who uses the cash method of accounting, as most farmers do, must report income in the year in which he or she actually receives the income. The Tax Code, however, outlines certain exceptions to this rule where disaster conditions generate income to the farmer that otherwise would not have been received at that time. For example, one exception allows farmers who receive insurance proceeds or disaster payments when crops are destroyed or damaged due to drought, flood, or any other natural disaster to include those proceeds in income in the year following the disaster, if that is when the income from the crops otherwise would have been received.

Two other provisions deal with involuntary conversion of livestock. The first provision enables livestock producers who are forced to sell herds due to drought conditions to defer tax on any gain from these sales by reinvesting the proceeds in similar property within a 2-year period. The second provision allows livestock producers who choose not to reinvest in similar property to elect to include proceeds from the sale of the livestock in taxable income in the year following the sale.

For no apparent reason, the two provisions dealing with livestock do not mention the situation where livestock is involuntarily sold due to flooding, blizzards, or other extreme conditions. Thus, these weather emergencies do not trigger the benefits of those provisions. Yet, many livestock producers are currently being compelled to sell livestock because they are under stress, just as they were forced to by the floods the other year to sell their animals because the crops necessary to feed the livestock and the fences for containing them had been washed out.

Our proposal would expand the availability of the existing livestock tax provisions to include involuntary conversions of livestock due to flooding and other extreme, weather related conditions. This would conform the treatment of crops and livestock in this respect.

Last Congress, I introduced this bill in the Senate as S. 109, and my colleague, Senator JOHNSON, introduced a companion measure in the House—H.R. 1588—when he was a Member of that body. Similar legislation was passed by Congress as part of the Revenue Act of 1992. Unfortunately, that legislation was subsequently vetoed for unrelated reasons. The Department of the Treasury testified in support of the change in the last Congress. In 1995, the Joint Committee on Taxation estimated the revenue loss from my bill to be $17 million over 6 years.

Let me emphasize that the tax provisions we are dealing with here affect the timing of tax payments, not forgiveness of tax liability. The distinguished Governor of South Dakota, William Janklow, called me a few days ago and emphasized how important it would be for Congress to make this change as soon as possible. I hope my colleagues will agree that we should not shut out some farmers—livestock producers—from the disaster related provisions of the Tax Code simply because the natural disaster involved was severe winter conditions or a flood instead of a drought. That just doesn't make sense.

The American Farm Bureau Federation and the National Farmers Union have endorsed the bill. I urge my colleagues to give it favorable and early consideration.

Mr. President, I ask 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. 239

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TREATMENT OF LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.**

(a) DEFERRAL OF INCOME INCLUSION.—Subsection (e) of section 451 of the Internal Revenue Code of 1986 (relating to special rules of proceeds from livestock sold on account of drought) is amended—

(1) by striking "drought conditions, and that these drought conditions" in paragraph (1) and inserting "drought, flood, or other weather-related conditions, and that such conditions"; and

(2) by inserting ", FLOOD, OR OTHER WEATHER-RELATED CONDITIONS" after "DROUGHT" in the subsection heading.

(b) INVOLUNTARY CONVERSIONS.—Subsection (e) of section 1033 of such Code (relating to livestock sold on account of drought) is amended—

(1) by inserting ", flood, or other weather-related conditions" before the period at the end thereof; and

(2) by inserting ", FLOOD, OR OTHER WEATHER-RELATED CONDITIONS" after "DROUGHT" in the subsection heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1996.

Mr. DORGAN. Mr. President, I'm pleased to join Senator DASCHLE and others in reintroducing legislation to bring much-needed tax relief to family farmers and ranchers whose businesses have suffered from unduly harsh weather conditions in the Upper Midwest this winter.

Livestock producers in North Dakota and other States in the Northern Plains have been facing unusually extreme conditions during this winter. North Dakota has experienced at least a half-dozen blizzards, winds of up to 50 miles per hour, and wind chills of near 80 below zero.

Our livestock producers have had great difficulty in moving snow and keeping paths open to both feed and livestock. Our interstate highways have been closed seven times this winter so it is easy to imagine the difficulties that our rural people have had in keeping township roads open and usable.

Some are beginning to compare this winter to the infamous winter of 1886 which nearly wiped out the cattle industry on the Northern Plains. That was the year in which Teddy Roosevelt lost his cattle herd on his ranch in the North Dakota badlands.

When this winter is over, we will be able to make some judgments as to whether this winter will be another of those history-making times which will haunt the memories of another generation of farmers and ranchers in the Dakotas.

But right now, we need to do everything possible to ease the burdens that our livestock producers are facing. The U.S. Department of Agriculture has been working very hard to get workable programs to help producers get to their livestock and feed. They have also been working on the longer range problem of helping ranchers and farmers with the extra feed supplies that are needed to get these cattle through the winter.

While USDA has had some problems in getting those programs on the ground, we certainly appreciate the Department's efforts especially when we consider the limited tools that are currently available to them. It should be noted that the Emergency Livestock Feed Assistance program that would normally have been available for such a situation was suspended by the 1996 farm law. This has put USDA in a position of having very limited resources and authorities for this emergency.

Compounding the problems of our livestock producers have been the very low cattle prices that have come from a combination of being at the bottom of a cattle pricing cycle together with record levels of concentration in the marketplace.

Our producers have had a hard time maintaining their herds even without this winter emergency. That is why it is extremely important that we help them through this time period.

Some of our producers are making the choice to either sell their cattle altogether or reduce the size of their herd, rather than to continue to maintain them at high costs and high risk.

Unfortunately our current tax laws hinder such sales in the case of most weather-related disasters except for drought. If a farmer or rancher is forced to sell cattle or other livestock prematurely this winter, they will be burdened with a large tax bill. There is no provision at present for tax deferral of gains on involuntary conversions of livestock for severe winter conditions. The Tax Code allows for such deferrals only for drought conditions.

In the last session of Congress, I cosponsored legislation with Senator DASCHLE that would have expanded this tax provision to respond to a variety of severe weather conditions.

Our legislation would allow a farmer or rancher to defer paying taxes on the proceeds of an involuntary sale of livestock due to severe weather-related emergencies if he reinvests the proceeds in similar property down the road. A farmer or rancher who decides not to reinvest the proceeds under these circumstances may elect to report the proceeds from the sale on the next year's tax return. This legislation, which is supported by the Administration, builds upon similar provisions in the Tax Code which is provided in the case of forced livestock sales due to drought.

Initial estimates following the January 10th blizzard across our State indicated that about 2,000 livestock producers were selling nearly 35,000 additional cattle as a result of that storm. The weekly reports from the North Dakota Agricultural Statistics Service indicate that cattle sales continue to be more than 20 percent above normal in the State.

This legislation will give these producers an additional tool in managing their operations so that these involuntary conversions do not impose additional financial hardships upon them.

Again I am pleased to once again cosponsor this legislation with Senator DASCHLE to help our producers meet the unusual conditions of this winter. I urge my colleagues to join us in this effort.

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By Mr. MCCAIN:

S. 240. A bill to provide for the protection of books and materials of the Library of Congress, and for other purposes; to the Committee on Rules and Administration.

THE LIBRARY OF CONGRESS BOOK PROTECTION ACT

• Mr. MCCAIN. Mr. President, today I am introducing legislation to help protect the valuable resources of the Library of Congress. The Library of Congress Protection Act will help the Library of Congress stop abuses of its free book loan program by authorizing the Library to impose fines for books that are long overdue.

I am introducing this legislation to empower Library of Congress officials to crack down on individuals who seriously abuse their Library privileges, by keeping books too long or failing to return them. Library of Congress officials should not have to tolerate the fact that many individuals are apparently unconcerned about returning the books that taxpayers provide for them. Congress should not prevent the Library from instituting strengthened policies to hold severely delinquent borrowers responsible for their tardiness.

This legislation will enable the Library of Congress to implement a reasonable overdue book charge policy similar to those of most public libraries across America. By doing so, the many Members of Congress, congressional staffers, and executive branch employees who benefit from this magnificent institution will have an added incentive to comply with the generous loan policies of the Library of Congress.

This proposal is very basic, but it will afford Library officials the leverage and flexibility they need to address this problem. This bill will help Library of Congress officials keep better track of their resources, and will spur many delinquent borrowers to return the books that taxpayers provide for them completely free of charge.

The Library of Congress Book Protection Act would direct the Library to implement an overdue book charge policy for books improperly held over 70 days. These individuals or offices will have their privileges suspended until their fines are paid in full. Library of Congress officials will, however, be able to waive such penalties when appropriate. The Library would also be authorized to retain the funds received from late book fines, as well. Finally, the offices of severely delinquent borrowers and the fines they owe will be published in the annual report submitted by the Library to its oversight committees.

While figures for the 104th Congress have not been published yet, preliminary data shows that as of December 28, 1996, over 2,200 books were over 30 days overdue. Figures published by the Library during the 103d Congress showed that out of the 20,000 books that were out on loan, over one-third were listed as overdue. One half of the 4,200 books on loan to congressional staff and the media were listed as overdue, and 1 in 5 books out on loan to Members, committees, and congressional support agencies had been overdue for more than 2 months. Library of Congress officials state that over 300,000 books are missing from their collections dating back to 1978, and the estimated cost of these thefts is $12 million.

I am concerned about the fact that it is all too easy for individuals to disregard their responsibility to return books to the Library of Congress in a timely manner. This negligence is not only unfair to the other users of the Library, but it also drains the Library's resources in chasing down overdue or missing books.

In addition to Members of Congress and congressional staff, the Library of Congress also makes loans to executive branch departments and agencies, the judiciary and diplomatic corps, the press, and other institutions. As I have mentioned, Mr. President, the Library of Congress is barred from charging late fees for overdue books in contrast to virtually every other publicly funded library in America. Furthermore, the Library cannot retain any funds that might be collected due to the loss or damage of loaned books. It's clearly time to change these unwise restrictions and strengthen the Library's ability to protect its resources, and I hope Members of the Senate will support this legislation to do so.

Surely, it's not asking too much of the individuals and offices fortunate enough to use the Library of Congress to do so in a responsible manner. Even under the new borrowing guidelines that would be instituted by this legislation, there really is no reason for any well-intentioned borrower ever to have to pay late fines or have their privileges suspended. I'm optimistic that the mere specter of having to pay overdue book fines will coax delinquent borrowers into responsibility renewing their book loans or returning the books.

I hope that the Senate will adopt this legislation to implement prudent new guidelines in the book loan policies of the Library of Congress.•

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By Mr. McCAIN:

S. 241. A bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes; to the Committee on Finance.

THE AMERICAN FAMILY-OWNED BUSINESS ACT

• Mr. McCAIN. Mr. President, I rise today to introduce the American Family-Owned Business Act—a bill that will preserve the American family businesses and save jobs across the country. This bill cuts estate tax rates in half and also creates a new exclusion that completely eliminates the estate tax for small businesses. Under the new exclusion, family-owned businesses can exempt up to $1.5 million of family business assets from their estate. If a family business is valued at more than $1.5 million, the excess is taxed at one-half of the current rates—thus providing a maximum tax rate of 27.5 percent.

This legislation was introduced in the last Congress by my good friend, the former majority leader, Bob Dole. Although this legislation was included in S. 2, The Family Tax Relief Act, I feel so strongly about the need for estate tax relief for family-owned businesses and farmers that I felt it was necessary to introduce this legislation on its own.

The current Federal estate tax is just too burdensome on the American family. Time and time again, farmers and other business owners across the country have told me that estate tax rates are just too high. They rise quickly from 18 to 55 percent, effectively making the Government a 50–50 partner in a family business.

Even the most sophisticated estate tax planning and the purchase of life insurance cannot sufficiently mitigate the effects of these high rates, leaving families no recourse but to sell their businesses to pay the estate tax. This bill will stop these forced sales from happening again.

I agree with many who say that estate tax rates should be reduced across the board, or repealed entirely. I applaud my colleague, Senator KYL, who is leading the effort to repeal the estate tax. And I hope that we do that some day. But given our current budget crisis, we will likely have to take an incremental approach on the estate tax. This legislation takes an important step in that direction.

This legislation will protect and preserve family enterprises. We know too well the adverse impact of an estate tax-forced sale. The family loses its livelihood, the family business employees lose their jobs, and the community suffers.

We must do all that we can to help family-owned businesses not only survive, but also prosper. They are the job creators in this country. In the 1980's alone, family businesses accounted for an increase of more than 20 million private-sector jobs.

By relieving families of the burden of the estate tax and letting them keep their businesses, they can continue to prosper. And when families continue to operate their businesses, we all benefit—the business' employees keep their jobs, the government receives income taxes on business profits, and the families retain their livelihood.

The bill requires heirs to participate in the family business. These participation rules are deliberately flexible and recognize that different family businesses need differing levels of participation by heirs.

The estate tax is not a Democratic or a Republican problem, or one that affects only rural or urban families. There are farmers, ranchers, or other family businesses in each State that would benefit from this legislation.

This bill provides the critical relief needed for American families' businesses. I urge my colleagues to support this effort, and I hope that Congress

will act expeditiously on this important legislation.•

By Mr. McCAIN:

S. 242. A bill to require a 60-vote supermajority in the Senate to pass any bill increasing taxes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

TAX FAIRNESS AND ACCOUNTABILITY ACT OF 1996

• Mr. McCAIN. Mr. President I introduce legislation entitled the "Tax Fairness and Accountability Act of 1997." This legislation requires a supermajority vote in the Senate in order to raise taxes and eliminates the 60-vote Congressional Budget Act point of order against reducing taxes. A supermajority vote requirement is the strongest possible defense for this body's spending excesses. By requiring 60 votes in the Senate to approve a tax increase rather than a simple majority, we will ensure that Congress does not balance the budget on the backs of taxpayers.

Although our national debt currently stands at over $5.3 trillion, Congress' insatiable appetite for spending has not diminished. Our inability to reach a balanced budget for the past 28 years is not due to undertaxation but rather over spending. It is time that we place limits on the ability of government to casually dip into the pockets of an already overtaxed citizenry.

According to the Tax Foundation, Americans spend more on their tax bill than food, shelter and clothing combined. This is simply outrageous. The American people cannot afford to be taxed anymore. Arizonans, for example, had to work until almost the beginning of May to pay their tax bill. Today nearly 40 percent of the American family's paycheck goes toward some kind of tax.

There have been numerous studies that show when Congress increases taxes it increases spending by a greater amount. One study by the Joint Economic Committee, showed that for every dollar that was raised in taxes, Congress spent $1.16. Thus, the deficit reduction claimed by those who support raising taxes is lost. The 1990 budget debacle is the best example of Congress' chronic disease called tax and spend. Under the 1990 budget deal Congress was supposed to cut spending but of course it never did. The tough spending caps that were put in place under this agreement, were raised by Congress in order to satisfy their insatiable appetite for spending. We must do everything in our power to find a remedy for this disease. The supermajority vote requirement is the first dose of the medicine.

This legislation is so important because politicians have forgotten whose money they are spending in Washington. Americans work very hard for the money they earn and send to Washington. Again and again studies show that people are working harder for less and are spending more time at work. In many families one or both parents must work two and three jobs just to make ends meet, leaving less and less time for family. Congress needs to take heed of these facts and recognize that families all across America are being forced to tighten their belts as the tax man continues to take an evergrowing portion of their money. Balancing the budget should require Congress to tighten their belt by reducing spending, not by asking Americans to pay more. I hope the Senate will act quickly on this important legislation.•

By Mr. McCAIN (for himself, Mr. HOLLINGS, Mr. FORD, and Mr. GORTON):

S. 243. A bill to provide for a short term reinstatement of expired Airport and airway trust fund taxes, and for other purposes; to the Committee on Finance.

REINSTATEMENT OF THE AVIATION EXCISE TAXES

Mr. McCAIN. Mr. President, I rise today to introduce a bill, cosponsored by Senators HOLLINGS and FORD, to reinstate the aviation excise taxes until September 29, 1997.

On December 31, 1996, the aviation excise taxes expired. The aviation excise taxes include a 10-percent passenger ticket tax, a 6.25-percent freight waybill tax, a $6 per person international departure tax, and fuel taxes imposed upon general aviation aircraft. These taxes were the principal source of revenues for the airport and airway trust fund, which funds most of the budget of the Federal Aviation Administration [FAA] and all of the FAA capital programs.

Recent estimates by the General Accounting Office [GAO] and the FAA indicate that, unless the excise taxes are reinstated, the trust fund will be out of available moneys by March or April of this year. The FAA will have to terminate spending on its capital programs—the safety and security enhancements that we have worked so hard to institute.

It is unconscionable to allow the FAA to go without money that is absolutely essential to fund the safety and security programs of the national air transportation system.

The current estimates of when the trust fund will be out of available money—which I just learned today—are much more dire than originally anticipated. There are several reasons for the unexpected worsening of the FAA's fiscal situation.

The Treasury Department may have mistakenly credited the trust fund with $1.5 billion. Under normal circumstances, there is a gap in the time between the collection of taxes on airline tickets and the payment of those taxes into the Treasury by the airlines. In addition, those taxes are first paid into the general fund before being credited to the trust fund. When the aviation excise tax expired, so did the authority to transfer the revenues from the general fund to the trust fund.

The result of this process is that billions in tax revenues from 1996 are not paid to Treasury until 1997. Because those revenues cannot be transferred out of the general fund, the trust fund may have far less money than originally estimated. The trust fund could be out of available money by March, with curtailment of spending beginning even before that time because of the stringent provisions of the Anti-Deficiency Act.

On one particular point, I want to be very clear—the taxes should not be extended for more than a few months. We have a process in place to explore alternative long-term funding mechanisms to ensure the fiscal viability of the FAA and its important safety and security missions. Until the results of those studies are available and alternative mechanisms are in place, we must ensure that adequate funding is provided for these programs.

These taxes were allowed to expire at the end of last December so that reinstatement of the taxes would count for new revenues which can be used to offset tax cuts or spending in other parts of the Federal budget. Playing budget games with these excise taxes is simply deplorable. The excise taxes paid by the users of the national air transportation system must be dedicated to that system.

Mr. President, if the situation was dangerous before, it has now reached a very critical point. We must not delay any longer. Therefore, I am introducing this bill to take immediate action to begin the process of reinstating the aviation excise taxes until September 29, 1997. I will work closely with Senators LOTT and DASCHLE to ensure early Senate action on this vitally important measure, so that the safety of our airline transportation system is not adversely affected.

Mr. HOLLINGS. Mr. President, I rise today in support of extending the aviation ticket tax through the end of fiscal year 1997. This tax is very important to the day-to-day operation of our Nation's aviation system. Money to improve, maintain, and run our airports is 100 percent supported by fees paid by the users of the air transportation system. It is not paid for by the taxes we all pay on April 15. Every time they fly, people have been paying the user fees in the form of a ticket tax. That money has been going into the airport and airway trust fund, and the money is then disbursed through the appropriations process. We tell people to pay these fees, and we tell them we will then spend it on airports.

However, there is one small problem. The ticket tax expired at the end of 1996. Due to budget games, the money that we thought would be in the trust fund is not there. Originally we were advised that the trust fund would be broke in July, but now it appears that it will be depleted as early as March. If this situation is not corrected, millions of dollars in airport modernization projects, aviation safety enhancements, and airport security efforts will have to be delayed or terminated. The obvious answer to this untenable situation is to reinstate the aviation ticket tax, and that is why I am cosponsoring Senator MCCAIN's bill. I urge my fellow colleagues to quit playing budget games and start fulfilling Government's primary function—preserving the safety of the American people.

Mr. FORD. Mr. President, today I join my colleagues in cosponsoring a bill to reinstate the aviation ticket tax through September 29, 1997. This tax goes directly into the aviation trust fund. The tax has already expired and we cannot allow the trust fund to go broke. If that occurs, then it will be very difficult for us to continue to maintain the safety and security initiatives that are needed in order to secure and ensure the safety of our aviation system.

I do not need to remind my colleagues of the importance of aviation safety. Over the past year, we have seen too many headlines which have underscored the need for a safe and secure aviation system. I urge my colleagues to act expeditiously on this very important matter.

Mr. GORTON. Mr. President, on January 1, 1997, the aviation system in the United States received a serious blow when the aviation excise taxes lapsed. Together, these taxes—the 10-percent passenger ticket tax; the 6.25-percent cargo waybill tax; the $6.00 per person international departure tax; and certain general aviation fuel taxes—account for more than 90 percent of the revenues in the airport and airway trust fund, which funds the Federal Aviation Administration and its programs.

Without the collection of these revenues, the uncommitted balance of the airport and airway trust fund is quickly being depleted. In fact, it is running dry at a rate of $175 per second —more than $15 million every day. Yesterday, officials at the Department of the Treasury announced that if no action is taken to reimpose these taxes, the trust fund could be insolvent as early as March.

For this reason, I am pleased to join my colleagues, Senators MCCAIN, HOLLINGS, and FORD, in sponsoring the Airport and Airway Trust Fund Taxes Short Term Reinstatement Act. This legislation will extend the existing system of aviation excise taxes through September 29, 1997, and give Internal Revenue Service authority to transfer previously collected aviation excise taxes into the airport and airway trust fund.

The numerous aviation tragedies in 1996 have, I believe, lowered the public's confidence in the safety of the U.S. aviation system. While our system continues to be the safest aviation system in the world, Congress owes it to the American people to consider this legislation as quickly as possible to ensure aviation safety, security, and capital investment are not jeopardized in any manner.

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By Mr. MCCAIN:

S. 244. A bill to amend the Internal Revenue Code of 1986 to repeal the increase in the tax on Social Security benefits; to the Committee on Finance.

THE SENIOR CITIZENS' EQUITY ACT

Mr. MCCAIN. Mr. President, I introduce legislation that repeals the increase in tax on Social Security benefits. The Omnibus Budget Reconciliation Act of 1993 increased the taxable proportion of Social Security benefits from 50 to 85 percent for Social Security recipients whose threshold incomes exceed $34,000—(single)—and $44,000—(couples). The legislation I am introducing today simply phases out this increase gradually over a 4-year period. In 1997, the applicable percentage would be 75 percent; in 1998, 65 percent; in 1999, 60 percent; in 2000, 55 percent; and finally in 2001, the taxable percentage would return to 50 percent.

I believe the increase in the taxable portion of Social Security benefits was blatantly unfair because it changed the rules in the middle of the game. Responsible senior citizens who had carefully planned for their retirement were penalized and saw their income fall while their marginal tax rate skyrocketed. Nearly 9,000 seniors representing 23.4 percent of recipients are affected by this provision. These Seniors relied on, and based their decisions on, the old law, and they have no recourse to go back in time to change their decisions based on the new law.

Clearly, we should be encouraging all Americans to save and invest for the future. We can no longer expect that Social Security benefits will take care of all our retirement needs. If Congress continues to change the rules after plans and investment decisions have been made, we will diminish the incentive for Americans to prepare for the future and plan accordingly.

I am consistently amazed by the perverse disincentives Congress enacts. Aside from being patently unfair, taxing 85 percent of Social Security benefits above the current income levels creates a tremendous disincentive for affected seniors to work. It simply doesn't make sense to work if every dollar you earn over the threshold drastically reduces your Social Security benefits.

I am pleased that this legislation is supported by the National Committee to Preserve Social Security and Medicare and the Seniors Coalition. I ask unanimous consent to submit their letters of endorsement into the RECORD.

The problems with this additional tax on Social Security benefits are strikingly similar to the Social Security earnings limit. I am pleased that Congress finally enacted an increase in the earnings limit last year and I hope that we will act expeditiously on this legislation.

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

THE SENIORS COALITION,
*Fairfax, VA, January 27, 1997.*

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

DEAR SENATOR MCCAIN: On behalf of the 2.4 million members of The Seniors Coalition, I would like to express our strong support for your legislation repealing the 1993 increase in taxes on Social Security benefits. While this legislation is desirable, total repeal would be preferable.

The arguments you made at the time of introduction are certainly persuasive. However, they apply as much to a tax on 50 percent of benefits as they do to a tax on 85 percent of benefits. We understand the arguments in favor of taxes on some portion of benefits, and recognize the supposed adverse revenue impacts from total repeal. Accordingly, while The Seniors Coalition would prefer to see total repeal of all taxes on Social Security benefits, we do recommend immediate passage of your bill at least rolling back the 1993 increase. We will be happy to make this case in public hearings, and you certainly have permission to use our support to promote passage of the bill.

Please let us know if there are further steps we can take to move this legislation to passage.

Sincerely,

THAIR PHILLIPS,
*Chief Executive Officer.*

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NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
*Washington, DC, January 28, 1997.*

Hon. JOHN MCCAIN,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR MCCAIN: The National Committee to Preserve Social Security and Medicare welcomes as a major step in the right direction your legislation to repeal the inequitable tax increase on Social Security benefits enacted as part of the 1993 budget reconciliation bill.

The Omnibus Budget Reconciliation Act of 1993 increased the amount of Social Security benefits subject to tax from 50 percent to 85 percent for individual beneficiaries with income above $34,000 or for couples with income above $44,000. The "Senior Citizens' Equity Act" would gradually phase out this increase and return the taxable percentage to 50 percent by the year 2001.

The 1993 tax increase affects not only wealthy seniors but also middle income seniors. It unfairly penalizes responsible senior citizens who planned for their retirement through employment, saving, and investment. Many National Committee Members need or want to work, but they also deserve to receive their retirement benefits. Whether

the senior works out of the need for income or the pleasure of working, taxing 85 percent of social security benefits over the current income thresholds exacts a high price. The increased tax rate only discourages work and retirement savings.

Moreover, a Price-Waterhouse analysis demonstrated that the 1993 bill targeted seniors by increasing their tax burden more than non-seniors in every income category—on average twice as great for senior families as non-senior families. Middle income seniors experienced a disproportionately large tax increase under the 1993 bill. For your information, we are enclosing a summary of the Price-Waterhouse data.

On behalf of older Americans, we thank you for your work to enact this important legislation.

Sincerely,

MARTHA A. MCSTEEN,
*President.*

Enclosure.

BUDGET RECONCILIATION CONFERENCE AGREEMENT UNFAIRLY TARGETS AMERICA'S SENIORS

The table below, compiled by Price-Waterhouse, demonstrates that the budget reconciliation conference agreement targets seniors by increasing their tax burden more than non-seniors in every income category—on average twice as great for senior families as non-senior families.

Families in the lowest income category will receive a tax cut of 28.1% while elderly families in the same category will see a tax increase of 4.6%. Senior families in the second lowest income category will see a tax increase of 3.8% while all families in the same category will see a reduction of 1.1%. While seniors in these groups are unaffected by the increased tax on Social Security benefits, they are affected by the energy tax and receive little or no assistance from the earned income tax credit.

Middle income seniors also will see a disproportionately large tax increase. Seniors with income between $24,000 and $72,000 will have tax increases that are 2.5 to 6 times higher than non-senior families without children in comparable income classes.

Under the conference bill, seniors will face an average increased tax burden of 7.5%, more than double the 3.5% increase for non-seniors without children.

PERCENTAGE CHANGE IN FEDERAL TAXES[1] FROM RECONCILIATION CONFERENCE BILL BY 2-PERSON FAMILY INCOME CLASSES[2] BY FAMILY TYPE

[1994 income levels for 1998 proposed tax law]

| Adjusted family income for 2 persons | Senior families | Non-senior families w/o children | All families |
|---|---|---|---|
| 0–$12,900 | 4.6 | −4.3 | −28.1 |
| $12,901–$23,600 | 3.8 | 0.8 | −1.1 |
| $23,601–$35,300 | 2.8 | 1.0 | 1.0 |
| $35,301–$53,300 | 2.3 | 0.9 | 1.0 |
| $53,301–$72,000 | 6.4 | 1.0 | 1.4 |
| $$72,000 or more | 9.8 | 6.5 | 8.4 |
| All | 7.5 | 3.5 | 3.8 |

[1] Includes all permanent tax changes in conference agreement and includes the outlay portion of the earned income tax credit.

[2] Percentage change in taxes is for all families by family size adjusted income quintiles. For example, first quindle is for families with incomes below 145% of the poverty threshold (e.g., a 2 person family income of less than $12,900).

Source: Congressional Budget Office data complied by Price Waterhouse. CBO distribution table dated August 2, 1993.

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By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 245. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges for the judicial district of Maryland; to the Committee on the Judiciary.

JUDGESHIP LEGISLATION

Mr. SARBANES. Mr. President, I rise for myself and my distinguished colleague from Maryland, Senator MIKULSKI, to introduce a bill crucial to the administration of justice and the economy in our State. This bill provides for two additional bankruptcy judgeships in the Federal Judicial District of Maryland. A look at the conditions currently facing Maryland's bankruptcy judges reveals the critical need for these new judgeships.

Recent years have witnessed a sharp rise in bankruptcy filings nationwide. Last year, for the first time in our history, filings during a 12-month period—June 1995–June 1996—exceeded 1 million, a 21.4-percent rise from the prior 12-month period. This trend has many causes, including greater access to credit, a lagging economy in some regions, and public and private downsizing. Such sharp increases in filings strain the ability of bankruptcy judges to administer justice promptly and effectively, and jeopardize the stabilization of creditor-debtor relations that is, after all, the goal of bankruptcy law.

No State has been more affected by these trends than Maryland. Bankruptcies there have quadrupled in the past decade. As filings rise nationwide, Maryland rates of increase have significantly exceeded Federal rates. No end appears to be in sight. Maryland filings during January-November 1996 exceeded State filings during the same period in 1995 by 36 percent; in the July-November 1996 period, State filings exceeded by 45 percent filings during the same period in 1995.

In 1991, the U.S. Judicial Conference, using a 1990 Federal Judicial Center time-management study, adopted a case-weighting system for bankruptcy judges, under which different types of cases were assigned different degrees of difficulty and overall weighted case-hour goals were established for the judges. Under this system, the average U.S. bankruptcy judge has a weighted case-hour load of about 1,250 hours per year. The Judicial Conference generally does not consider a request for new bankruptcy judgeships by a Federal judicial district unless the average case-hour total for the district's judges exceeds 1,500.

Given these yardsticks, the burdens facing the district of Maryland's bankruptcy judges are truly astounding.

In 1993, the national weighted case-hour average was 1,362 hours; by contrast, the Maryland average for that year was 59 percent greater—2,168 hours.

In 1994, the national average was 1,227 hours; the 1994 Maryland average was 75 percent greater—2,143 hours.

In 1995, the national average was 1,149 hours; the 1995 Maryland average was 72 percent greater—1,982 hours.

In 1996, the national average was 1,272 hours; the Maryland total for that year was 75 percent greater—2,230 hours.

So for each of the last 4 years, the average weighted case-hours for Maryland's bankruptcy judges have exceeded by a wide margin not only the national average, but also the 1,500-hour yardstick used by the Judicial Conference to rate requests for additional judges.

Other States have faced temporary overloads, but only Maryland can claim the dubious distinction of having one of the Nation's most overworked bankruptcy courts for each of the last 4 years. In fact, only the District of Maryland has ranked in the top 3 among the 91 Federal judicial districts during each of the 8 biannual evaluations of bankruptcy judges' case-hours since September 1992.

This situation cries out for remedial action. Recognizing as much, the Judicial Conference recommended to the 104th Congress that Maryland receive an additional bankruptcy judgeship. Unfortunately, this proposal was not enacted into law and, as a result, the problem has worsened considerably.

I have cited data on increased bankruptcy filings in Maryland during late 1996. If Maryland received one additional bankruptcy judge tomorrow, the case-hours per judge in the district would still be 1,784, 141 percent of the national average and well in excess of the 1,500-hour mark used to rate a district's need for new judges.

In fact, even if Maryland received two new bankruptcy judges, its per judge caseload would still exceed the national average by 18 percent. To place Maryland at the national average, three additional bankruptcy judges would be required. Yet this bill adds only two judgeships, the minimum response according to those most familiar with the problem. This is the number recommended to the Judicial Conference by the Fourth Circuit Judicial Council, and I fully expect the Judicial Conference to include two new Maryland judgeships in its spring recommendations to Congress.

New judgeships are essential not only for effective judicial administration, but also for Maryland's economy. Bankruptcy laws are crafted to foster orderly, constructive relationships between debtors and creditors during times of economic difficulty. This in turn results in businesses being reorganized, jobs—provided by creditors and debtors—preserved, and debts managed fairly. Overworked bankruptcy courts have a destabilizing effect on this system.

Consider an example. Bankruptcy law provides debtors temporary relief from the claims of creditors, allowing the debtor to adopt a reorganization

plan, thereby improving its chances of recovery, and keeping creditors from cutting in line in front of other creditors who have priority claims on debtor assets. But the law also allows a court to grant creditors relief from a stay where the creditor shows that its claim will not receive adequate protection under normal procedures. Under this procedure, a court must hold a hearing 30 days after an application for relief from the stay, or automatically grant relief.

Because of the importance of these hearings, Maryland's bankruptcy judges routinely set aside 1 day per week to conduct them. One such judge, on December 6, 1996, had on his calendar 125 motions for relief from stay, a caseload that obviously precludes these cases from being fully heard. Thus, creditors seeking to cut in line, to the detriment of the debtor, other creditors, and the orderly administration of the bankrupt estate, may file for relief from stay, knowing that the case will not likely be heard and that the creditor will receive automatic relief under the law. Failure to hold a timely hearing may result in the inability of a debtor to reorganize, or in the cheating of other worthy creditors.

Similarly, the extreme caseloads faced by Maryland's bankruptcy judges allow dishonest debtors to dissipate assets, again at the expense of worthy creditors.

In short, the inevitable delays occasioned by the lack of judges harm both creditors and debtors, thereby imperiling businesses and the people employed by them. Is it any wonder that private bankruptcy practitioners and business groups also support additional bankruptcy judges for the District of Maryland? To quote Susan Souder, president of the Maryland Federal Bar Association, "Maryland citizens, businesses, and lenders should be entitled to the same protection of the courts as their counterparts in other States." Currently they do not receive such protection. Two new bankruptcy judges in the District of Maryland are imperative if we are to address this critical problem.

In closing, let me commend the dedicated efforts of Maryland's four sitting bankruptcy judges—Chief Judge Paul Mannes and Judges Duncan Kier, James Schneider, and Steve Derby. Their dedication to the administration of justice is especially impressive given the extraordinary burdens placed upon them.

Ms. MIKULSKI. Mr. President, I am pleased to join with my colleague, Senator PAUL S. SARBANES, in sponsoring this important legislation. This bill would authorize the appointment of additional bankruptcy judges for the State of Maryland.

Bankruptcy filings nationwide have dramatically increased. In my State of Maryland, over 20,000 individuals and businesses filed bankruptcy last year. Unfortunately, bankruptcy filings have hit a peak nationwide with both individuals and businesses seeking relief from financial debt. While the economic climate in Maryland is much better than in many parts of the country, the recent recession has had an impact on consumers in my State.

This bill will give relief to bankruptcy judges, who hear cases in Maryland. These judges have had a growing caseload to process. This is good news for consumers, who are seeking a reorganization of their debts and creditors seeking to protect their rights. It is critical that consumers are able to have their bankruptcy petitions processed in a timely manner. For the debtor seeking to protect his home under a chapter 13 filing, this bill will help expedite the process and allow the bankruptcy judge to give full consideration to the petition.

Maryland's bankruptcy judges have had to struggle to keep up with the growing docket. Because of the current heavy caseload, judges cannot schedule hearings in a timely manner. This adversely affects the debtor's reorganization and delays distributions to creditors.

The District of Maryland currently has four bankruptcy judges. The Judicial Conference recommended the authorization of an additional judge. Their findings were based on the weighted caseload per judge, which is a good indicator of a judge's workload.

Maryland's judges are working strenuously in the best interests of both debtors and creditors. But, their caseload requires additional assistance. Maryland needs at a minimum one more bankruptcy judge, but would prefer two more judges.

Judges from other districts have helped Maryland's bankruptcy judges. However, these judges have had to struggle with their own increasing caseloads.

The Judicial Conference found that Maryland's judges have a caseload per judge that is 70 percent above the national average. Clearly, the bankruptcy judges in Maryland's district are overwhelmed by the caseload. Even with the addition of another bankruptcy judge, Maryland's judges would still have a caseload that is above the national average. So, I hope we will be able to provide two additional slots.

I hope my colleagues will support this legislation. It is important for consumers and creditors to process their claims. It is also important to provide equity in handling the caseload in Maryland's bankruptcy courts.

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By Mr. GREGG:

S. 246. A bill to amend title XVIII of the Social Security Act to provide greater flexibility and choice under the Medicare Program; to the Committee on Finance.

MEDICARE LEGISLATION

Mr. GREGG. Mr. President, this piece of legislation which I have just sent to the desk is an update of the legislation which I introduced last year to address what is obviously one of the most critical issues which we face as a Congress, and that is the question of the solvency of the Medicare trust funds and the proper way to deliver health care to our senior citizens.

Last year the bill that I am introducing was basically used as the core concept for the structural reform which was included in the balance budget bill which was passed by this Senate and by the Congress and sent to the President, which he unfortunately decided to veto.

The bill that I have just introduced is an attempt to once again bring forward what I consider to be a number of very constructive and important initiatives in the area of making Medicare a more effective system of health care for our senior citizens.

We have all heard the facts, the facts being that the Medicare system is broken, that it is not only broken but that it is headed aggressively toward bankruptcy, that this year it lost $9.2 billion or spent $9.2 billion more in the part A trust fund than it had taken in, that the losses are increasing and will be more than $40 billion annually by the year 2000, and that, as I mentioned, the part A trust fund in Medicare will be broke, will be insolvent as of the year 2001, the early part of 2001, actually January.

I think the actuaries may have fudged a little bit there so they would not have to say 2000. I think we are going to find quickly that the insolvency of the trust fund is going to occur in the year 2000, which is not very far away from us.

What happens when the part A trust fund goes insolvent? Basically, the senior citizens do not have a health care system and do not have an insurance system. There is no provision in the law today that allows us to supply health care if there are no funds to pay for it in the part A trust fund. So the system will literally not exist, and senior citizens will be without a health insurance system.

We should have addressed this last year, of course. And there was an attempt to address it last year. But because of the politics of the season, because we were in an election year—both for this Congress and for the Presidency—it was not addressed, even though sincere attempts were made from this side of the aisle.

Those sincere attempts included, in significant part, the bill which I have just reintroduced. But they were confronted by an opposition which demagoged the issue and said that the proposals to try to bring about solvency in the Medicare part A trust fund were actually going to undermine

that system when in fact what is undermining the system is the pending insolvency of the trust fund.

President Clinton, this year, to his credit, has decided to step up to the issue of Medicare or at least said he is going to publicly, and suggested that he will propose $138 billion in savings in the Medicare accounts.

Of course, last year when Republicans proposed savings in the Medicare accounts, they were accused of cutting Medicare. I will not use that term because I believe that we need to pursue an effort of constructive dialog here. But it is ironic that this year the President would be calling his proposal to save $138 billion as a constructive attempt to address Medicare when last year it was characterized as a savaging and extreme act, both by members of the President's party and by the Vice President, when we proposed savings not much higher than what are being proposed by the President today.

Unfortunately, in proposing his $138 billion in savings, the President has used a lot of old ideas and what you might call attempts to address the Medicare system at the margin. Unfortunately, also, although not accounted for allegedly in the $138 billion of savings, he has also used a massive bookkeeping gimmick of moving home health care out of the part A trust fund allegedly into the part B trust fund, so actually it is under the taxpayers of America and into the general fund. It is an incredible act of flim-flam and one which hopefully will not be accepted by this Congress.

Independent of that, the real problem of the $138 billion is not that it is inappropriate; it is that it does not address the underlying structural problem of Medicare. It addresses lower payments to providers, mostly. But the problem of Medicare is not the extra dollar we are paying to this provider or the extra 5 percent we are paying to that provider, it is the fact that it is presently structurally not supportable, the fact that the costs of Medicare are simply going up much faster than the cost of the Government generally and the rate of inflation. Not only generally, but also the rate of inflation in the health care industry.

The system is designed as a 1960's automobile. It was created in the 1960's. In the 1960's it was not a Cadillac system. Everybody knows that. It was probably an Oldsmobile. But it is the exact same Oldsmobile designed in the 1960's that is now on the road in the 1990's. It has been patched and repaired and fixed up here and there, but we are still driving down the road in the 1990's in a 1960's car. It is not working. It is not working because it does not acknowledge the fact that the health care delivery system in this country has changed fundamentally since the 1960's.

In the 1950's and 1960's most people had a doctor by name, an individual. Most people pursued what was known as fee-for-service medicine where they hired their doctor. Their doctor referred them to another doctor if they had a problem. They hired that doctor, and they went around hiring individual doctors. Today, health care is not provided that way in the private sector, or, for that matter, in the public sector, if you are a member of the Federal Government. Today, the way it is provided, usually you have a prepaid plan where you pay an amount upfront and you participate in a plan that provides you a variety of options with a variety of different physicians to go to. It may be in the form of an HMO or PPO or PSO, or it may be in the form of some hybrid, but there are usually a variety of different ways you get health care. Only rarely today in the private sector and in the Federal employee sector is that health care provided in the manner of going out and hiring an individual physician and then moving forward on a fee-for-service basis through the system.

Yet, we still have Medicare delivering the vast amount of its care, the vast amount of its service, under the fee-for-service system, which has created an inflation factor in the Medicare system in the cost of delivery of that system which is basically making it unaffordable and leading to the bankruptcy of the part A trust fund. Because there is no competition today in the senior citizens' health dollars, because the system remains a closed system where fee-for-service really is only the viable way—there are a few HMO's, but they are very limited in their applicability—then, as a result, we have not brought the market force into the system, we have not brought efficiencies into the system, and we have not seen occur in Medicare what has occurred in the general health care delivery system in this country.

Over the last 3 years, the rate of inflation of health care costs in this country, the inflationary rate of growth of health care costs in this country, were less than the general rate of inflation. The general rate of inflation was about 3 percent. The rate of growth of health care costs was below that number in the last 3 years in the private sector. Yet, in the Medicare system, the rate of growth of health care has remained about 10 percent.

What my legislation does essentially is give seniors more options. That is why it is called choice care. It says to senior citizens, you can go out in the marketplace and participate in the system you presently have if you want to, in the fee-for-service system. There is no reason you cannot stay in the system you are presently in, or, alternatively, you can go into one of the other delivery systems—HMO, PPO, or PSO—whatever you want to pursue. It gives the senior citizen, if you want to simplify it, it gives the senior citizen the same options, essentially, that a person who works for the Federal Government has who is under the Federal employee health benefits program. I, as a Member of Congress, have an option to choose a number of different health care plans. Why should the senior citizens not have that same option?

Basically, we asked that question, and we say they should. They should. Not only would it be more advantageous for a senior citizen to be able to go out and pick any number of health care programs, but it would be more advantageous for us, the Federal Government, and for the taxpayers to have those options, because we would bring competition into the system and hopefully, as a result, bring market forces into the system and, as a result, help to reduce the rate of growth of health care costs to something closer to what we are seeing in the private sector.

We never expect that a program designed for seniors will have the same rate of growth of health care costs as the private sector because seniors, regrettably, have more health problems. We know we can do better than a 10-percent annual rate of growth. In fact, to make the trust fund solvent, we do not have to get to the private sector rate of growth. We do not have to get to a 3 percent or less rate of growth. We can make the trust fund solvent with rate of growth somewhere between 6 or 7 percent annually.

We are only talking about reducing the rate of growth of the Medicare trust fund by 3 percent; we are talking about continuing to allow it to grow by 6 to 7 percent. This is a huge increase, a huge amount of new dollars flowing into the health care system every year. It is a result of the fact we are able to still balance the trust fund and make it solvent with that type of rate of growth that we create a huge marketplace incentive for people to compete for senior dollars in health care. It is that desire for competition, that use of competition which will lead us to a more competitive system, a more efficient system, and for a system which will actually deliver better health care to seniors.

We put some protections in here, also, to make it clear that seniors are not giving up anything by participating in choice care. First off, as I mentioned, they have the right to stay with fee-for-service, their present plan, if they want to. Second, any plan that wants to compete for a senior citizen dollar must provide the core services which are presently provided under the Medicare system. You may say, if that is the case, why are they ever going to be able to charge less if they have to provide the same amount as the senior presently gets? It is called the marketplace. There are ways to provide the same services and pay less for them

and have them cost less by having more efficiencies in the provider. The marketplace will produce that sort of efficiency and you will have less costs.

Also, we give seniors the right to opt out if they choose another type of health care delivery service. If they are uncomfortable with it, they can disenroll from that service.

Furthermore, and most importantly, we do not allow people who are competing for the seniors' dollars to discriminate. In other words, if you are a provider and you are going to make yourself available to supply senior citizens with health care, you have to take all comers. There cannot be any attempt to screen out people because they have preexisting conditions. So it will not have adverse risk selection.

The practical implications of this are that a senior will annually receive a booklet or proposal, much like we receive as Federal employees, which will outline the various health care systems which are available to that senior. What I see happening is that there are going to be a lot of health care providers who will say, "Hey, we can provide that senior with the same health care they are getting today," because of the 6 to 7 percent annual increase. "We can provide that senior with that same health care and throw some other benefits in, too. We can offer prescription care, we can offer eyeglasses, we can offer a variety of things that are not presently available under Medicare because we know that we can more efficiently deliver the service than the senior is presently getting on fee-for-service."

What I expect will happen and what I am pretty confident will happen and what people who have looked at this in depth say will happen is that the marketplace will bring forward a variety of different options from which seniors will have a choice. At the same time, we will give seniors an incentive to go out and look at those choices because what we will say to seniors is, "Listen, today, we pay about $4,800 a year for your health care per senior. You, senior citizen, to the extent you choose a health care delivery service," which, again, has to have the core delivery services that you presently get so they cannot reduce their price because they are not delivering you what you need," to the extent you choose a delivery service which costs less than $4,800, we will let you, the senior, keep 75 percent of the savings."

So if the annual premium of an HMO supplying seniors with the same service is say $4,500 and the senior chooses to go with that HMO because the senior maybe has a family member—a son or daughter who is working and a member of that HMO—and the son or daughter say, "They can give us pretty good service," that senior will get to keep the difference between $4,800 and $4,500, or $300. That senior will get to keep 25 percent of that difference, and 75 percent will be returned to the trust fund.

So what we have created here is a market event where a senior citizen can get a savings by shopping thoughtfully and efficiently for their health care, and where the health care providers have an incentive to come in and compete for that health care dollar. What does that cause? That causes efficiency. It causes the marketplace to create efficiency. We have learned that the Federal Government can't produce efficiency. We have learned that by having a nationalized system, which is what Medicare is, you do not have an efficient system; that you have an inefficient system. What we know from experience is the way you create efficiency and lower costs is by having competition and having a playing field where the consumer is protected, which is exactly what this does.

So this proposal would give the seniors an incentive to be thoughtful purchasers, and would give the marketplace an incentive to come in and be thoughtful competitors, or strong competitors for the senior citizen dollars.

Another issue that is raised and is legitimate is the question of reimbursement and how we are going to reimburse these provider groups. The President has proposed that we cut the rate of reimbursement for HMO's from 95 to 90 percent arbitrarily across the board. I am not going to criticize the President for trying to address the cost of growth. I think that is important. But there is a better way to do this. The fact is that the reimbursement system as it is presently structured is out of kilter. For health care services which are identical—and in some cases they are better in the lower cost States than the higher cost States—the reimbursements are not identical. They are totally out of whack.

For example, there is a beneficiary reimbursement in South Dakota of about $200 per person. But on Staten Island it cost about $767 per person. Studies by Dr. Weinberg at Dartmouth, and a number of other professionals, have concluded that the service isn't any better but that it is simply an issue of regional disparity. And in fact in New Hampshire, which happens to be one of the lowest cost health care States in the country—a little more than South Dakota but not much more—we are rated the No. 1 State in the country for health care delivery systems. Yet, our delivery systems are done at a cost which is one-third the price of what it cost on Staten Island.

So this regional disparity has basically penalized States and areas that are trying to be efficient and effective in delivering their health care.

Take Hawaii, for example. Hawaii has one of the highest costs of living in the country because of the fact that it is an island, and everything has to be shipped in, I guess. But at the same time Hawaiian medical care is one of the most efficient cost delivery systems in the country. So they are penalized. Those health care systems are penalized by a lower reimbursement rate.

What we suggest—and this is a complicated issue—we are suggesting that as we go forward with this Choice Care proposal that we begin to level out the playing field on reimbursement so that we no longer are rewarding the inefficient, and so that the efficient receive the proper payment. We do this by not cutting anybody because we are increasing funding for Medicare throughout this period by 6 to 7 percent. We do not have to cut anything. What we are going to do is slow the rate of increase to those areas that have a much higher reimbursement and accelerate the rate of increase to those with lower reimbursement areas.

As a result, we will at some point—there is a timeframe in our bill that allows for this—about 5 to 7 years from now get to a period where we have everybody in a much narrower band of reimbursement which leads to a much more efficient market.

So the underlying theme here is simple. Under the Choice Care plan, which as I mentioned was adopted in significant proportions, or the concepts were adopted in significant proportions in the last budget, seniors should be given essentially the same choices that members of the Federal Government have and that the average working American has—the ability to go out in the marketplace and choose from a variety of different health care providers. And in making that choice they should be given an incentive to be efficient.

So we are going to reward them by giving them a return on the amount that they save, and at the same time we are going to say to the marketplace we are no longer going to disproportionately reward inefficient areas at the expense of efficient areas, and at the same time we are going to say to the seniors, "You have a variety of options to choose from. But, if you want to stay where you are, and you are happy where you are, you can do that."

So how does this help the Federal Government in the end? How does this get Medicare costs under control? It basically amounts to a major structural reform of the system. It is not playing at the edges the way the President proposes. It is a major structural reform. In the end we will have brought the marketplace into the system, we will have created an atmosphere where seniors will be looking at a variety of choices for health care, and where efficiency will be something that will have to be undertaken by the provider groups. They are going to be able to get the seniors' participation, and those seniors today who are in their fee-for-service probably are not going to opt into this overly aggressively because they were raised in the 1950's and

1960's with fee-for-service. We understand that. But what we also understand is that the coming generation of seniors has been in a workplace environment where the variety of health care service delivery system has been available to them. They are comfortable with a variety of health care delivery systems. And as such they are not going to shy away from taking advantage of the marketplace.

So, as we go down the road we will get the type of savings we need. We will see that rate of growth reduced from 10 percent back to 6 or 7 percent. That is still a substantial rate of growth. Then we will have put in place something that can give us a long-term lasting hope for restructure of reform, or reform in the Medicare trust fund in order to avoid the bankruptcy. If we do not do this, the trust fund part A goes bankrupt. It is that simple. That is not acceptable.

If we do not undertake structural reform, if we simply undertake the reform at the margins, like the President has proposed, we put off that bankruptcy maybe for 2, 3, or 4 years. But it still occurs. Our obligation as policymakers is to make the more fundamental broader changes that are needed for a long-term solution to this problem. And this is one major step in that direction.

Mr. President, I appreciate your time and yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President I really enjoyed the remarks of my distinguished colleague from New Hampshire. He makes a lot of very telling and important points in the field of health care. I think he deserves to be listened to, as certainly the distinguished doctor sitting in the chair, the Presiding Officer. As everybody knows, he has great interest in health care matters.

And I just want to say that I appreciate the work of both of these Senators, the Senator from New Hampshire and the Senator from Tennessee, in this area.

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By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 247. A bill for the relief of Rose-Marie Barbeau-Quinn; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

• Mr. WYDEN. Mr. President, I introduce private relief legislation for Ms. Rose-Marie Barbeau-Quinn. Senator Hatfield championed Ms. Barbeau-Quinn's cause in the 104th Congress, and at his request and the request of many in the Portland area, I and Senator SMITH are now picking up the legislation to make Ms. Barbeau-Quinn a citizen of this country.

Ms. Barbeau-Quinn, a native of Canada, is a long time member of the Portland community and resident of Oregon. She lived in Portland with her now deceased husband, Mr. Michael Quinn since 1976, and together they ran the Vat and Tonsure Tavern, a unique and respected restaurant in the Portland area. While Ms. Barbeau-Quinn and her husband lived together for over 16 years, they did not actually marry until shortly before Michael Quinn's death in 1991.

Since Oregon does not recognize common law marriage, and Ms. Barbeau-Quinn was not married the 2 years required by immigration law, she has not been able to file for permanent residency in this country. While I do not intend to introduce many private relief bills, because of Senator Hatfield's involvement in this matter and Ms. Barbeau-Quinn's compelling case, I think it is appropriate that the Senate pass legislation to ensure that Ms. Barbeau-Quinn remains a member of the Portland community for many years to come.•

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By Mrs. FEINSTEIN (for herself and Mr. REID):

S. 248. A bill to establish a Commission on Structural Alternatives for the Federal Courts of Appeals; to the Committee on the Judiciary.

THE STRUCTURAL ALTERNATIVES FOR THE FEDERAL COURTS OF APPEALS COMMISSION ESTABLISHMENT ACT OF 1997

Mrs. FEINSTEIN. Mr. President, today, with my distinguished colleague, HARRY REID, I am introducing S. 248, a bill to establish a Commission on Structural Alternatives for the Federal Courts of Appeals.

The Commission proposal emerged last year during a debate over a controversial bill to divide the Ninth Circuit Court of Appeals. As a result of that discussion, it became clear to me and the majority of my colleagues that there was no consensus on how best to resolve the problem of caseload growth in the U.S. courts. The idea of a study commission gained broad support and has independent merit.

Legislation to form a study commission was approved twice by the Senate in the 104th Congress: in March 1996 as a stand-alone bill, and later in the session as part of the Senate amendments to H.R. 3610, the Omnibus Consolidated Appropriations Act of 1997. Although the Senate amendment was not included in the final version of H.R. 3610 signed by the President on September 23, 1996, the initial funding for the Commission was appropriated therein. The authorizing legislation deserves a speedy enactment by the 105th Congress.

The Commission legislation we are offering today is evenhanded, fair, and genuinely bipartisan. It will consist of two members appointed by the Chief Justice of the United States, two members appointed by the President, two members appointed by the majority leader of the Senate, two members appointed by the minority leader of the Senate, two members appointed by the Speaker of the House of Representatives, and two members appointed by the minority leader of the House of Representatives.

The object is to have a balanced group of individuals who will examine the issues fairly and give full consideration of all relevant perspectives. With a balanced membership, we can be confident that the Commission's recommendations will be given due weight by all three branches of the National Government.

BROAD SUPPORT FOR A STUDY COMMISSION

The proposal for a study commission on Federal appellate structure has won enthusiastic support from prominent judges and scholars.

To underscore the need for this legislation, as well as its importance, I can do no better than quote from Judge Diarmuid F. O'Scannlain, who has served with distinction on the Ninth Circuit since his appointment by President Reagan in 1986. In a recent symposium in the Montana Law Review, Judge O'Scannlain wrote in favor of the study commission bill offered last year:

> As one member of the Court of Appeals most affected, I view [a study commission] as a far superior alternative to [a bill that] would have immediately divided the Ninth Circuit. The [study commission] bill also provides an historic opportunity to develop a comprehensive blueprint for the structure of the federal courts of appeals generally, and the Ninth Circuit in particular, for the 21st Century. No comprehensive review of the structure of the federal courts has been undertaken since the study chaired by . . . Senator Roman Hruska of Nebraska in the 1970s (the "Hruska Commission"), and in my view such a review is most timely.

Chief Judge Proctor Hug., Jr. of the Ninth Circuit, also writing in the Montana Law Review symposium, observed:

> Based upon its prior experience with the academic community and the benefits obtained from their insightful recommendations, the Ninth Circuit strongly supported Senator Dianne Feinstein's proposed legislation to establish a study commission . . . to take a full and fair look at the entire federal appellate system and to make recommendations to the Congress for how and where to make reforms.

Another participant in the symposium was Prof. Arthur D. Hellman of the University of Pittsburgh School of Law, a leading national authority on the Federal appellate courts. Professor Hellman wrote:

> . . . Congress should proceed systematically by creating a new, focused commission to examine the problems of the entire appellate system and make recommendations that will serve the country for the long run.

In a similar vein, Prof. Carl Tobias of the University of Montana Law School, a respected scholar of Federal procedure, has written in the National Law Journal:

> A preferable route would be to appoint a national commission to seek solutions to the

problems of the appellate system as it is currently constituted, and ways of handling its increasing dockets with efficiency. Careful study should provide sufficient information to make a fully informed decision . . . The time is now ripe for Congress to authorize such a study, rather than engage in piecemeal reform.

THE COMMISSION

Our bill directs the Commission to study "the present division of the United States into the several judicial circuits." Next, the statute calls for a study of "the structure and alignment of the Federal Court of Appeals system, with particular reference to the Ninth Circuit." Finally, the Commission must "report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal Courts of Appeal, consistent with fundamental concepts of fairness and due process."

The language of the statute leaves no doubt that one task of the Commission would be to undertake a careful, objective analysis of the arguments raised by proposals to divide the ninth circuit. However, it is equally clear that the Commission's mandate is not limited to the ninth circuit or to the delineation of circuit boundaries generally. This reflects the fact that circuit alignment is one of a set of interrelated structural arrangements that govern the operation of the courts of appeal.

To ensure expeditious consideration of the issues at all levels, S. 248, contains three important deadlines. Section 2(b) requires that appointment of members be made within 60 days of enactment. Section 6 requires the Commission to submit its report within 2 years of the date on which its seventh member is appointed. Section 7 requires that the Senate Judiciary Committee act on the report no later than 60 days after submission.

There are three reasons why the Commission should be given 2 years in which to carry out its work. First, before the Commission can formulate its recommendations, it will have to secure informed, objective answers to specific and difficult questions. These questions cannot be answered merely through contemplation, or even by consultation with experts. They will require research, and research takes time.

Second, an important part of Commission process is obtaining public input. In particular, at an appropriate stage in its deliberations, the Commission should issue a draft report for public comment. Responses from constituencies should be taken into account in formulating the final recommendations.

Third, the 2-year timespan is supported by the experience of other commissions, such as the Hruska Commission of 1973 and Bankruptcy Commission of 1994. It may be argued that if, as with the Hruska Commission, the initial deadline proves unworkable, Congress can always extend it. But that is the wrong lesson to be drawn from the experience of the Hruska Commission. It is far more efficient to provide initially for the 2-year lifespan than to put everyone to the time and effort of seeking an extension later.

Our proposed Commission will be fair, and it will have sufficient time to conduct a credible study. The Commission will help determine the proper course for the future of our national judiciary, and therefore I urge my distinguished colleagues to support S. 248.

Mr. REID. Mr. President, the issue of whether to divide the Ninth Circuit Court of Appeals is one in which I have been very involved with since the initial proposal. I made clear my opposition to the proposed split last year, and I am still convinced that such an unnecessary and costly venture is unwarranted. However, I have agreed to the establishment of a commission to study the judicial circuits, the structure and alignment of the Federal court of appeals system, and to report to the President and the Congress its recommendations for such changes in the circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal courts of appeal.

Today, Senator FEINSTEIN and I are introducing a bill to create this commission. The commission makeup is fair, evenhanded, and bipartisan. It will consist of two members appointed by the President, two members appointed by the Chief Justice of the United States, two members appointed by the majority leader of the Senate, two members appointed by the minority leader of the Senate, two members appointed by the Speaker of the House of Representatives, and two members appointed by the minority leader of the House of Representatives. I think this is the most fair and equitable way to study this issue.

In today's environment of fiscal belt tightening, it is crucial that we carefully scrutinize proposals such as splitting a judicial circuit. It is necessary that we curtail the development of costly Federal proposals and engage in studied cost-benefit analysis before we create new programs. There are many unanswered questions in splitting the Ninth Circuit Court of Appeals. What are the costs associated with such a division? Will this require the construction of new courthouses and hiring of additional judges? If so, how many and how much? And what are the benefits of a division? The commission we propose will answer all of these questions before we even consider any possible division. Further, the commission will examine the structure and function of all the Federal courts of appeal.

This is a reasonable proposal for the establishment of a vital commission. I urge my colleagues to support this bill.

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By Mr. D'AMATO (for himself, Ms. SNOWE, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. MOYNIHAN, Mr. DOMENICI, Mr. FAIRCLOTH, Ms. MOSELEY-BRAUN, Mr. BIDEN, Mr. INOUYE, Mr. MURKOWSKI, Mr. DODD, Mr. KERREY, Mr. HATCH, Mr. GREGG, Mr. SMITH of New Hampshire, and Mr. FORD):

S. 249. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations; to the Committee on Finance.

THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1997

Mr. D'AMATO. Mr. President, I come here today and rise to introduce a bill that I think is unfortunately necessary, unfortunately because HMO's and insurance carriers—and I don't mean this for all, but we are seeing a growing tendency—are doing the kinds of things nobody would have imagined, and they are doing it and interfering with good, sound medical care, because they are more interested in the bottom line.

Indeed, there are some who are already beginning to drumbeat against health maintenance organizations per se, and we would be losers, because there are important innovations and savings that can be made, but those savings and innovations should not be made at the expense of the traditional and important and sacred—sacred—right that a patient should have with their physician.

Maybe it takes the specter of cancer and breast cancer, in particular, because people are concerned and it is a fright, to get people to focus on what is taking place, and that is insurance carriers placing arbitrary limits on patients as it relates to the length of stay or time that they can use a medical facility, a hospital.

It is interesting and, indeed, ironic that as I make these remarks, the presiding officer who sits in the chair and presides over the Senate today is a distinguished Senator and a distinguished citizen who spent so much of his life in the area of healing and of practicing medicine and who knows better than I. I am so pleased to be able to have his counsel and to share these thoughts with him today personally.

While I introduce this legislation on behalf of 16 colleagues in the Senate of the United States and 20-plus Representatives in the House, Democrats and Republicans—totally bipartisan—I do not suggest that this is the cure-all for what we see taking place. Indeed,

we have specifically limited this legislative initiative.

There were calls and outcries that HMO's and insurance carriers be required to provide at least a minimum of time as it relates to mastectomies. Many in the medical profession came forward and said, "We think that is the worst kind of legislation. We would rather see no time, nor do we think that the health providers should be setting times."

That is a larger debate for a larger area, but I subscribe to that, and I think that we should say very clearly here in the U.S. Senate and Congress, By gosh, insurance carriers should not be saying, "If there is a particular disease, we are only going to insure you up to X hours."

What happens if there is a complication? It may be that a procedure, whether it be a mastectomy or whether it be prostate cancer or whether it be some other disease, that ordinarily, under normal circumstances, there is an average length of time. It might be 1 day, 2 days, 3 days. But who is to say, if there is a complication and it takes 6 days or 2 weeks, are we then going to say something that ordinarily would be covered in insurance policies, that somehow because someone has adopted a rule—and why they have adopted that rule; I don't know how they can practice that, they are not practitioners—that we are going to exclude you if you go over that period of time?

This is wrong. This should not be the way in which we attempt to manage health care costs, and it is, I believe, taken by many people to mean the greed of the industry.

The fact that there are now today many in the HMO business, some almost startup companies overnight, making millions and millions of dollars—I am not against profits, but if you are going to make profits by denying adequate basic medical treatment, then that is wrong, that is immoral and we in the Congress of the United States have a business to do something about it.

I know there are going to be those who say let the marketplace work, let free competition work. Well, that is naive. To simply say that by insisting on a minimum standard, that minimums be observed, that no one interferes with the patient and that very special relationship with the doctor—we are now seeing that taking place, because there are those carriers who are punishing doctors, punishing them by denying them adequate compensation or penalizing them by denying them moneys they otherwise would have because they recommend treatments that may cost that insurance carrier more but which they feel are necessary for the safety, health, and protection of their patients.

How dare we permit and countenance that kind of thing today? We know it is going on, and to the health maintenance organizations and to the insurance carriers who say it is not going on and this legislation is not necessary, well, if it is not necessary, don't oppose it. It is that simple. If you are not penalizing doctors or rewarding them because they hold back on treatments that might cost more and which are necessary, then why should you be opposed to it? If you are not arbitrarily limiting the time that a patient may have or necessary treatments, then why would you be opposed to it?

This legislation basically says you cannot do that, you cannot prescribe 48 hours as it relates to mastectomies. You cannot deny that doctor-patient relationship by penalizing a doctor. We say you are not permitted to do that, or rewarding a doctor on the basis of cost-effectiveness.

In a third provision, we say that when it comes to the devastating disease and the specter of cancer, not only breast cancer, but prostate cancer—all cancers—that people are entitled to a second opinion. There is not anyone I know who, if they faced a diagnosis and were given a particular course of treatment that would be suggested, that they would not look for a second opinion. That is fact.

If the doctor and the attending physician recommended a second opinion, our legislation says the company must pay for that. If that physician feels that there is a need to get some specialist outside of the organization, outside of that HMO, the company must pay for that. What do we say to the average worker who has no independent resources who can't pay $500 or $1,000, or whatever it might be for that specialist, for that second opinion? You cannot have it?

So, Mr. President, we provide that with respect to this particular disease. I believe we should go further, and I think in the fullness of the discussions and the legislative actions that this Congress will undertake that we will examine this, and your committee, the Health Committee, in particular will be looking at it.

But I think certainly at this time we should begin to say, Listen, as it relates to this particular disease of cancer, where the treating and attending physician recommends a second opinion, that patient should have the ability and the right to be covered and have that second opinion.

I am going to relate two specific examples, because we have spent some time in shaping and putting together this legislation and it is by no ways written in stone or steel. It is in the sand, it is something to be looked at, something to be worked with. I look forward to the help and recommendations of the distinguished Senator from Tennessee, who presides today, on how we can improve and make this legislative effort a better one.

Last, but not least, in the area of breast cancer in particular, one of the very shattering thoughts and a fear that women live with today is the fact that they may be one of the eight who is diagnosed with breast cancer, and that is a national average. They are concerned about the treatment that might permanently disfigure them and, therefore, it becomes absolutely imperative that, as a nation, we indicate to people that there are courses of treatment that cannot only save a life but, indeed, do not have to be disfiguring, and in this way, as it relates to breast cancer in particular, have more women coming in for early diagnosis and treatment and avoid, No. 1, death, and, No. 2, disfigurement, because we provide that breast cancer reconstruction and that reconstructive surgery not be considered cosmetic.

If someone loses an ear, that surgery is not considered cosmetic. However, incredibly, we find insurance carriers denying reconstruction on the basis that it is cosmetic. So we create a double tragedy by denying women who have that disease and who don't have the ability to pay for reconstruction the ability to have that. And, second, and probably just as important, there are many who will not go for early diagnosis, and, therefore, the treatment is not available to them until it is too late. That has to be avoided.

So we provide that HMO's and insurance carriers must make this available. It is not an option that they can just simply turn away.

The title of our bill is called the "Women's Health and Cancer Rights Act of 1997."

Mr. President, I rise today to introduce the Women's Health and Cancer Rights Act of 1997. This important reform legislation will significantly change the way insurance companies provide coverage for women diagnosed with breast cancer. The problem of the so-called drive-through mastectomies must be eliminated from our society. Physicians must not be forced to have their best medical judgment questioned by insurance companies who put their bottom line before a woman's health. The women of New York and America deserve better.

Today, there are 2.6 million women living with breast cancer. In 1997 alone, more than 184,000 women will be diagnosed with breast cancer and, tragically, 44,000 women will die of this dreaded disease. Breast cancer is still the most common form of cancer in women; every 3 minutes another woman is diagnosed and every 11 minutes another woman dies of breast cancer. The D'Amato-Feinstein-Snowe legislation makes critically important changes in how breast cancer patients receive medical care.

Specifically, the bill requires health insurance companies to cover an unlimited stay in the hospital following

mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer when the attending physician decides a longer stay is necessary. Every physician would have the freedom to prescribe longer stays when necessary, and the confidence that insurers will not punish them for practicing sound medical treatment. My bill would make it illegal to penalize a doctor for following good medical judgment. The time for a hospital stay will no longer be an arbitrary determination made on the basis of saving money.

Another important provision of the D'Amato-Feinstein-Snowe bill ensures that mastectomy patients will have access to reconstructive surgery. Scores of women have been denied reconstructive surgery following mastectomies because insurers have deemed the procedure cosmetic and not medically necessary. It is absolutely unacceptable and wrong that many insurers deem this essential surgery as cosmetic, and it is a practice that must be changed.

The Women's Health and Cancer Rights Act also includes a unique provision for coverage of second opinions by specialists. The bill would require health care providers to pay for secondary consultations when cancer tests come back either negative or positive. This important provision will help identify false negatives as well as false positives. Additionally, if the attending physician recommends consultation by a specialist not covered by the health plan, the bill would allow the doctor to make such a referral at no additional cost to the patient.

This legislation is particularly important for the women of Long Island. Our families have been ravaged by this horrible disease. Our grandmothers, mothers and daughters, sisters and wives, children and friends have been afflicted at rates that are unexplained and far too high.

We must continue to work together to find a cure for breast cancer. But until a cure is found, we must ensure that women receive the treatment they deserve. This legislation protects women and anyone ever diagnosed with cancer. It is the most comprehensive bill introduced in the Senate and I am proud to offer it today.

I want to thank Senator FEINSTEIN and Senator SNOWE for the contributions that they have made as it relates to helping prepare this legislation. The Women's Health and Cancer Rights Act is important. It is important again that we preserve adequate, decent, affordable medical care and not tamper with that sacred relationship that should be preserved between a doctor and his patient.

I would like, if I might, to share with the Senate the remarks of a great surgeon, Dr. Larry Norton, Chief of Breast Cancer Medicine at Sloan Kettering, one of the great cancer hospitals in this Nation. He is reflecting about a patient. I will not read all of it. He tells why, I think, this legislation is so necessary. He said:

> There was a patient that I saw on a second opinion not too long ago who paid herself for a second opinion because her HMO . . . wouldn't [do that]. I saw her and told her about a therapy that was very scientifically based that we thought was superior here, in fact clinical trials have demonstrated to be superior, and it has become a standard now, throughout the United States. . . . we offered her that particular treatment.
>
> Speaking to the person on the other end of the phone at her managed care plan, and I managed to work my way up to the physician level through several clerical levels. . . .

Here is the chief of surgery at Sloan Kettering Memorial calling an HMO to suggest this course of treatment. I want to describe what is going on. He had to call clerk after clerk after clerk, and he finally got someone who was a physician. By the way, most people cannot do that and they cannot work through that. And he was told that they would not pay for the care.

He went on to say—and this is the person on the other end:

> . . . Dr. Norton, we are not saying . . .

Imagine, this is an HMO, a doctor on the other side of the HMO. He is saying:

> . . . Dr. Norton, we are not saying that [it] is not the right treatment, we are just saying that we are not going to pay for it.

By the way, what I am reading to you is testimony he gave publicly about 10 days ago in New York at Sloan Memorial. He went on to say:

> I put the phone down, shaking, and called her [that is, his patient] to discuss this with her, and her 10-year-old son answered the phone. I said who I was and he said, calling to his mother, "Mommy, your doctor is on the phone." I knew at that moment that the discussion that she could not get the care that was appropriate was not what I was going to say. Through enormous efforts, and through the support of my terrific institution, [we] were able to provide her that care and things turned out very well for her, as we could have anticipated.

The doctor goes on to say:

> The point is that there is a holy alliance between the doctor and the patient, and the entire structure of medicine is because of that holy alliance. It is a religious experience [a religious experience] to take care of a patient well and, if you feel any less motivation, you are not [going to be] doing your job as a physician. We feel that kind of motivation here. We are living in an era where a lot of steps are coming between the doctors and the patients. Their motivations are not necessarily the same motivations that have driven us to this point of advance.
>
> What we see before us today . . .

He talks about legislation and the fact that it was a bipartisan effort to protect that relationship, that special relationship that I know that the President understands well.

Again, we are going to hear cries of intrusion, or about the marketplace. Well, since when do you tell me we do not have a right to set basic minimums? We do that in many areas. We do that as it relates to quality of food. We do that as it relates to protecting our drinking water. We certainly have a right to say you cannot interfere with that special relationship by punishing a doctor because he is giving what he feels is the proper medical advice and withholding from him and having him think that he may be penalized. That is wrong. That is wrong.

Mr. President, I want to share another experience. When we initially talked about introducing this bill, we did not talk about breast cancer reconstruction. And I got a call from the executive director of the American College of Obstetricians and Gynecologists of New York, a remarkable woman by the name of Mary McCarthy. She said, "Senator, we've been making studies." She was a person who brought to our attention, Senator FEINSTEIN and Senator SNOWE, and others, the fact that there was this great problem of insurance carriers not providing for reconstructive surgery when it came to the breast and considering it as cosmetic.

Let me just read to you her words which communicate the problem. Not only is she the executive director of the American College of Obstetricians and Gynecologists of New York, she goes on to say:

> I am a breast cancer patient myself. I would like to share [with you] my experiences on the three major subjects within the bill, the mastectomy surgery, the reconstructive surgery and the second opinion.

She says:

> I thought I was very well informed on health care and I thought I had excellent health care coverage. Yet my own reconstructive surgery and my second opinion were both denied by my health care plan. My reconstruction was denied last April as not medically necessary.

She went on to say she was able to eventually get this surgery. She said:

> I am concerned that other women do not have these kinds of resources. I would like to touch, although personal, on the importance of reconstructive surgery for women who opt to have reconstruction surgery. My mastectomy was clinically curative surgery, but my reconstruction was emotionally healing. There is no longer a reminder every day of my cancer. When I get dressed in the morning, in an intimate moment with my husband, if I have my nightgown on at home with my kids, I look normal and I feel normal. If you lose an ear or a testicle, or part of your face to cancer, there is no question that reconstruction is covered. Yet denials for breast [cancer] reconstruction are serious and they are rising.
>
> For a disease with the magnitude of cancer, it is very important to have access to second opinions and to be able to [go] outside your HMO, if necessary, for the kind of expertise you need. To my surprise, and to the surprise of my physicians within my plan, my plan adamantly refused to authorize my second opinion. I paid for my second opinion myself, not all women have these resources . . . No family should be forced to assume this kind of responsibility.

Then she goes on to say something.

When I was in the hospital after my surgery . . . [the nurses] actually cringed [the people responsible for taking care of me] and looked upset when they changed my dressing. I spoke candidly to my husband, who is loving and caring and goes with me to most of my medical appointments, and he felt that he could not have handled the emotional or the clinical responsibility of helping with drains and bandages. The appropriate length of stay is critically needed and the language in the bill to ensure that the appropriate stay for each individual is met is vital.

What she is saying is that if she had been discharged, her husband could not have taken care of her. And you just simply cannot set a time limit.

Mr. President, I want to offer that bill. I send it to the desk with the cosponsors. I commend all of my colleagues to join in this legislative effort. It is one that we will be serious and purposeful for. I hope we can have hearings sooner rather than later.

Again, as I said, this is totally bipartisan in nature. Cancer does not look to see the politics of its victims. In particular, we address some of the major concerns as they relate to cancer. But I think problems that we have go well beyond this. This is something that this Congress should become involved in, the vital interest of the health of all of our citizens.

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. 249

*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 "Women's Health and Cancer Rights Act of 1997".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the offering and operation of health plans affect commerce among the States;

(2) health care providers located in a State serve patients who reside in the State and patients who reside in other States; and

(3) in order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in 1 State as well as health plans operating among the several States.

**SEC. 3. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.**

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by section 603(a) of the Newborns' and Mothers' Health Protection Act of 1996 and amended by section 702(a) of the Mental Health Parity Act of 1996) is amended by adding at the end the following new section:

**"SEC. 713. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.**

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

"(A) a mastectomy;

"(B) a lumpectomy; or

"(C) a lymph node dissection for the treatment of breast cancer.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed; and

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

"(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a) or (b).

"(d) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(e) SECONDARY CONSULTATIONS.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

"(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

"(f) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

"(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

"(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

"(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (e).".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act, as amended by section 603 of the Newborns' and Mothers' Health Protection Act of 1996 and section 702 of the Mental Health Parity Act of 1996, is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1998.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan

which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

**SEC. 4. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.**

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (as added by section 604(a) of the Newborns' and Mothers' Health Protection Act of 1996 and amended by section 703(a) of the Mental Health Parity Act of 1996) is amended by adding at the end the following new section:

**"SEC. 2706. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTION SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.**

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

"(A) a mastectomy;

"(B) a lumpectomy; or

"(C) a lymph node dissection for the treatment of breast cancer.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed; and

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

"(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a) or (b).

"(d) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(e) SECONDARY CONSULTATIONS.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

"(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

"(f) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

"(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

"(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

"(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (e).".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to group health plans for plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1998.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

**SEC. 5. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.**

(a) IN GENERAL.—Subpart 3 of part B of title XXVII of the Public Health Service Act (as added by section 605(a) of the Newborn's and Mother's Health Protection Act of 1996) is amended by adding at the end the following new section:

**"SEC. 2752. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND SECONDARY CONSULTATIONS.**

"The provisions of section 2706 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the date of enactment of this Act.

**SEC. 6. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.**

(a) IN GENERAL.—Chapter 100 of the Internal Revenue Code of 1986 (relating to group health plan portability, access, and renewability requirements) is amended by redesignating sections 9804, 9805, and 9806 as sections 9805, 9806, and 9807, respectively, and by inserting after section 9803 the following new section:

**"SEC. 9804. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.**

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

"(A) a mastectomy;

"(B) a lumpectomy; or

"(C) a lymph node dissection for the treatment of breast cancer.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed; and

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

"(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a) or (b).

"(d) NOTICE.—A group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan and shall be transmitted—

"(1) in the next mailing made by the plan to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(e) SECONDARY CONSULTATIONS.—

"(1) IN GENERAL.—A group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

"(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

"(f) PROHIBITION ON PENALTIES.—A group health plan may not—

"(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

"(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

"(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan involved under subsection (e).".

(b) CONFORMING AMENDMENTS.—

(1) Sections 9801(c)(1), 9805(b) (as redesignated by subsection (a)), 9805(c) (as so redesignated), 4980D(c)(3)(B)(i)(I), 4980D(d)(3), and 4980D(f)(1) of such Code are each amended by striking "9805" each place it appears and inserting "9806".

(2) The heading for subtitle K of such Code is amended to read as follows:

**"Subtitle K—Group Health Plan Portability, Access, Renewability, and Other Requirements".**

(3) The heading for chapter 100 of such Code is amended to read as follows:

"CHAPTER 100—GROUP HEALTH PLAN PORTABILITY, ACCESS, RENEWABILITY, AND OTHER REQUIREMENTS".

(4) Section 4980D(a) of such Code is amended by striking "and renewability" and inserting "renewability, and other".

(c) CLERICAL AMENDMENTS.—

(1) The table of contents for chapter 100 of such Code is amended by redesignating the items relating to sections 9804, 9805, and 9806 as items relating to sections 9805, 9806, and 9807, and by inserting after the item relating to section 9803 the following new item:

"Sec. 9804. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.".

(2) The item relating to subtitle K in the table of subtitles for such Code is amended by striking "and renewability" and inserting "renewability, and other".

(3) The item relating to chapter 100 in the table of chapters for subtitle K of such Code is amended by striking "and renewability" and inserting "renewability, and other".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1998.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

Mrs. FEINSTEIN. Madam President, as cochair of the Senate Cancer Coalition, I am pleased today to join with Senator D'AMATO in introducing S. 249, the Women's Health and Cancer Rights Act of 1997.

THE BILL

This bill does four things:

For treatment of breast cancer, it requires insurance plans to allow physicians to determine the length of a patient's hospital stay according to medical necessity; and it requires health insurance plans to cover breast reconstruction following a mastectomy.

For treatment of all cancers, it requires health insurance plans to cover second opinions by specialists whether the initial diagnosis is positive or negative; and it prohibits insurance plans from financially penalizing or rewarding a physician for providing medically necessary care or for referring a patient for a second opinion

TWO CALIFORNIA CASES

I have received two letters from constituents describing firsthand their treatment by insurance companies in having a mastectomy.

Nancy Couchot, age 60, of Newark, CA, wrote me that she had a modified radical mastectomy on November 4, 1996, at 11:30 a.m. and was released by 4:30 p.m. She could not walk and the hospital staff did not help her "even walk to the bathroom." She says, "Any woman, under these circumstances, should be able to opt for an overnight stay to receive professional help and strong pain relief."

Victoria Berck, of Los Angeles, wrote that she had a mastectomy and lymph node removal at 7:30 a.m. on November 13, 1996, and was released from the hospital 7 hours later, at 2:30 p.m. Ms. Berck was given instructions on how to empty two drains attached to her body and sent home. She concludes, "No civilized country in the world has mastectomy as an outpatient procedure."

These are but two examples of what, unfortunately, is becoming a national nightmare—insurance plans interfering with professional medical judgment and refusing to cover hospital stays of mastectomy patients.

NEED FOR THE BILL

Increasingly, insurance companies are dropping and reducing inpatient hospital coverage of mastectomies. This is beyond the pale. It is unconscionable.

The Wall Street Journal on November 6 reported that "some health maintenance organizations are creating an uproar by ordering that mastectomies be performed on an outpatient basis. At a growing number of HMOs, surgeons must document 'medical necessity' to justify even a one-night hospital admission."

In 1997, over 184,000 women—or 1 in every 8 American women—will be diagnosed with invasive breast cancer and 44,300 women will die from breast cancer; 2.6 million American women are living with breast cancer today. In my State, 20,000 women will be diagnosed with breast cancer and 5,000 will die or one every 27 minutes. San Francisco has among the highest incidence rates of breast cancer in the world.

After a mastectomy, patients must cope with pain from the surgery, with

psychological loss—the trauma of an amputation—and with drainage tubes. These patients need medical care from trained professionals, medical care that they cannot provide themselves at home.

In the last 10 years, the length of overnight hospital stays for mastectomies has declined from 4 to 6 days to 2 to 3 days to, in some cases, no days. With the average cost of one day in the hospital at $930, if insurance plans refuse to cover a hospital stay, patients are forced to go home.

BREAST RECONSTRUCTION

Insurance plans also refuse to cover breast reconstruction. Our bill requires coverage. Breast reconstruction is an important followup part of breast cancer treatment and recovery. One study found that 84 percent of patients were denied insurance coverage for reconstruction of the removed breast. Commendably, my State has passed a law requiring coverage of breast reconstruction after a mastectomy. However, we need a national standard, covering all insurance policies.

SECOND OPINIONS COVERED

Another important feature of our bill is insurance coverage of second opinions for all cancers. The news of possible cancer is traumatic. It is a dreaded fear that we all live with daily. For this life-threatening disease for which there is no cure, more information is better than less. Expert advice is needed to make all-important decisions. I believe it is reasonable to encourage people to have a second consultation with a specialist, by requiring insurance plans to cover second opinions.

Patients often need specialty care. A December 1996 study reported in the New England Journal of Medicine found that specialty care improves the outcome of heart attack patients. This should come as no surprise. Specialists are knowledgeable about their field. A California doctor pointed out that nonspecialists may order a "battery of unnecessary and sometimes invasive and risky examinations" for patients. Thus, incentives that discourage the use of specialists or referrals to specialists, can end up costing the insurance plan more—instead of saving money.

NO FINANCIAL INCENTIVES

Finally, our bill prohibits insurance plans from including financial or other incentives to influence the care a doctor provides, similar to a law passed by the California legislature last year. Many physicians have complained that insurance plans include financial bonuses or other incentives for cutting patient visits or for not referring patients to specialists. Our bill bans financial incentives linked to how a doctor provides care. Our intent is to restore medical decisionmaking to health care.

For example, a California physician wrote me, "Financial incentives under managed care plans often remove access to pediatric specialty care." A June 1995 report in the Journal of the National Cancer Institute cited the suit filed by the husband of a 34-year-old California woman who died from colon cancer, claiming that HMO incentives encouraged her physicians not to order additional tests that could have saved her life.

Our bill tries to restore professional medical decisionmaking to medical providers, those whom we trust to take care of us. It should not take an act of Congress to guarantee good health care, but unfortunately that is where we are today.

I hope my colleagues will join us in enacting this bill, an important protection for millions of Americans who face the fear and the reality of cancer every day.

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By Mr. FORD:

S. 250. A bill to designate the U.S. courthouse located in Paducah, Kentucky, as the "Edward Huggins Johnstone United States Courthouse"; to the Committee on Environment and Public Works.

THE EDWARD HUGGINS JOHNSTONE U.S. COURTHOUSE DESIGNATION ACT OF 1997

Mr. FORD. Mr. President, I rise today to offer legislation to designate the United States Courthouse in Paducah, KY as the Edward Huggins Johnstone United States Courthouse. There is much that I want to say about Edward Johnstone, a man known as "Big Ed" to his friends, and why this outstanding Kentuckian so richly deserves this accolade.

Edward Johnstone is a man who has spent his entire life in service to his country and the people of western Kentucky. Edward Johnstone is a veteran who fought for his country at the Battle of the Bulge, but finds nothing remarkable in his decorations of honor—to him they are reminders of his duty to country and fellow countrymen who never returned home. Edward Johnstone is a distinguished legal scholar who earned his law degree from the University of Kentucky and put his skills to work as a country lawyer in his hometown of Princeton, KY. Edward Johnstone is a judge who has served 21 years on the bench doling out words of wisdom and sentences of justice to those who come before him. Edward Johnstone is a tough, fair, hard-working Federal judge who puts in a full day's work even though he is a senior judge. Edward Johnstone is a man who gives me faith in the judicial process and those chosen to uphold our laws.

I am very proud to introduce legislation on behalf of myself and all of the western Kentuckians whose lives have been touched by this extraordinary individual.

Let me end my remarks, Mr. President, by remembering something that George Washington once said, "The administration of justice is the firmest pillar of government." As an administrator of justice, Edward Johnstone is our own marble column in the Western Kentucky community.

Mr. President, I send to the desk a bill designating the courthouse in Paducah, KY, as the Edward Huggins Johnstone United States Courthouse, and I ask that it be appropriately referred.

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

Mr. FORD. 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. 250

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The United States courthouse located in Paducah, Kentucky, shall be known and designated as the "Edward Huggins Johnstone United States Courthouse".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the Edward Huggins Johnstone United States Courthouse.

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By Mr. SHELBY (for himself, Mr. GRASSLEY, Mr. COCHRAN, Mr. ROBERTS, Mr. ABRAHAM, and Mr. HUTCHINSON):

S. 251. A bill to amend the Internal Revenue Code of 1986 to allow farmers to income average over 2 years; to the Committee on Finance.

FARMER'S INCOME AVERAGING LEGISLATION

• Mr. SHELBY. Mr. President, today I am introducing legislation—along with Senators GRASSLEY, COCHRAN, ROBERTS, ABRAHAM, and HUTCHINSON—which will restore to American farmers an important tool in meeting their Federal income tax obligations.

Mr. President, America would not be what it is today without the dedication, sacrifice, and hard work of the American farmer. The American farmer is the most efficient farmer in the world. Each farmer in America provides food and fiber for 94 people in our country and an additional 35 people abroad. As a result, Americans enjoy the most affordable, healthy, and stable food supply of any country in the world.

Yet, despite the successes of the American farmer, they are faced with unique and difficult barriers they must overcome, including unpredictable weather, natural disasters, plagues of insects and diseases, and excessive Government regulations. All of these result in substantial income fluctuations for the average farmer.

Wide swings in farmers' income from year to year, result in a tax burden

much higher than individuals with a stable source of income because surges in income are taxed at a higher rate than is a steady flow of income. This problem is compounded when a farmer's income is exaggerated by the sale of land or other assets.

Prior to 1986, farmers were allowed to average their income over a 2-year period in order to give them some sense of regularity and predictability in their payment of Federal taxes. This provision was repealed as part of the 1986 Tax Act, which reduced the number of tax brackets and lowered the top rate of 28 percent. However, since 1986, Congress has added two new tax brackets, and increased the top rate to 39.6 percent.

This change, along with the move to a more market-oriented farm program, makes it imperative that Congress restores to farmers the ability to average their income, and the legislation I am introducing today will do just that. The Joint Committee on Taxation estimated last year that this bill would cost about $90 million over 5 years.

Representative NICK SMITH has sponsored an identical bill in the House, and it has the broad support of the farming community. Groups endorsing this proposal include: Alabama Farmers Federation, American Farm Bureau Federation, National Association of Wheat Growers, National Cattlemen's Beef Association, National Farmers Union, National Grain Sorghum Producers, National Grange, National Pork Producers Council, and Women in Farm Economics.

Mr. President, the success of our Nation depends in large part on the success of the American farmer. Until we can enact broad-based tax reform, we should provide farmers with some sense of regularity and predictability in meeting their Federal tax obligation. This legislation will do that, and I hope my colleagues will support it.●

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By Mr. GREGG:

S. 252. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gains tax for assets held more than 2 years, to impose a surcharge on short-term capital gains, and for other purposes; to the Committee on Finance.

CAPITAL GAINS LEGISLATION

Mr. GREGG. Mr. President, I introduce a bill that will have a significant impact on the promotion of long-term investment through a reduction in the capital gains tax. I believe the Congress has a responsibility to enact laws promoting long-term capital investment and savings by all Americans. Part of fulfilling this obligation must include implementing a plan that would reduce the current capital gains tax rate on long-term investments.

We must also, however, balance this important economic goal against the moral issue of adding increasing debt onto our children's shoulders. This becomes an unavoidable issue in the capital gains debate because the Joint Committee on Taxation scores capital gains a big revenue loser. This scoring issue is an unfortunate fact that we in Congress cannot ignore.

Accordingly, I have developed legislation that would encourage long-term investment by amending the current capital gains tax using a sliding scale plan. My bill encourages an individual to hold an asset over a number of years, thus, allowing a greater tax reduction on investments, with the maximum benefit being reached after 4 years. It would reward individuals who look toward contributing to a savings plan over a number of years, while at the same time making quick-fix investments less attractive. This sliding scale plan would encourage investments that benefit long-term savings, such as a child's education, an individual's retirement, or other non-speculative holdings.

The theory behind the sliding scale reduction on capital gains hinges upon an agreed goal: the promotion of savings and long-term investment through a capital gains cut, while recognizing our current fiscal realities. The Joint Committee on Taxation estimates this plan would lose just $7.4 billion in revenue over the 1995–2000 period.

Finally, Mr. President, I ask unanimous consent that a Washington Post op-ed by Louis Lowenstein, professor of finance at Columbia University, be included in the RECORD. Professor Lowenstein's piece outlines the current fiscal problem this legislation attempts to address.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 252

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

(a) SHORT TITLE.—This Act may be cited as the "Long-Term Investment Incentive Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. 2. REDUCTION OF TAX ON LONG-TERM CAPITAL GAINS ON ASSETS HELD MORE THAN 2 YEARS.**

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

**"SEC. 1202. CAPITAL GAINS DEDUCTION FOR ASSETS HELD BY NONCORPORATE TAXPAYERS MORE THAN 2 YEARS.**

"(a) GENERAL RULE.—If a taxpayer other than a corporation has a net capital gain for any taxable year, there shall be allowed as a deduction an amount equal to the sum of—

"(1) 20 percent of the qualified 4-year capital gain,

"(2) 10 percent of the qualified 3-year capital gain, plus

"(3) 5 percent of the qualified 2-year capital gain.

"(b) DEFINITIONS.—For purposes of this title—

"(1) QUALIFIED 4-YEAR CAPITAL GAIN.—The term 'qualified 4-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 4 years were taken into account, or

"(B) the net capital gain.

"(2) QUALIFIED 3-YEAR CAPITAL GAIN.—The term 'qualified 3-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 3 years but not more than 4 years were taken into account, or

"(B) the net capital gain, reduced by the qualified 4-year capital gain.

"(3) QUALIFIED 2-YEAR CAPITAL GAIN.—The term 'qualified 2-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 2 years but not more than 3 years were taken into account, or

"(B) the net capital gain, reduced by the qualified 4-year capital gain and qualified 3-year capital gain.

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(d) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(e) TREATMENT OF COLLECTIBLES.—

"(1) IN GENERAL.—Solely for purposes of this section, any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(2) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of paragraph (1), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(3) COLLECTIBLE.—For purposes of this subsection, the term 'collectible' means any

capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof).

"(f) TRANSITIONAL RULE.—

"(1) IN GENERAL.—Gain may be taken into account under subsection (b)(1)(A), (b)(2)(A), or (b)(3)(A) only if such gain is properly taken into account on or after February 1, 1997.

"(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund."

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:

"(17) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202."

(c) MAXIMUM CAPITAL GAINS RATE.—Clause (i) of section 1(h)(1)(A), as amended by section 3(a), is amended by striking "the net capital gain" and inserting "the excess of the net capital gain over the deduction allowed under section 1202".

(d) TREATMENT OF CERTAIN PASS-THRU ENTITIES.—

(1) CAPITAL GAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

(A) Subparagraph (B) of section 852(b)(3) is amended to read as follows:

"(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—A capital gain dividend shall be treated by the shareholders as gain from the sale or exchange of a capital asset held for more than 1 year but not more than 2 years; except that—

"(i) the portion of any such dividend designated by the company as allocable to qualified 4-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 4 years,

"(ii) the portion of any such dividend designated by the company as allocable to qualified 3-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 3 years but not more than 4 years, and

"(iii) the portion of any such dividend designated by the company as allocable to qualified 2-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 2 years but not more than 3 years.

Rules similar to the rules of subparagraph (C) shall apply to any designation under clause (i), (ii), or (iii)."

(B) Clause (i) of section 852(b)(3)(D) is amended by adding at the end the following new sentence: "Rules similar to the rules of subparagraph (B) shall apply in determining character of the amount to be so included by any such shareholder."

(2) CAPITAL GAIN DIVIDENDS OF REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (B) of section 857(b)(3) is amended to read as follows:

"(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—A capital gain dividend shall be treated by the shareholders or holders of beneficial interests as gain from the sale or exchange of a capital asset held for more than 1 year but not more than 2 years; except that—

"(i) the portion of any such dividend designated by the real estate investment trust as allocable to qualified 4-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 4 years,

"(ii) the portion of any such dividend designated by the trust as allocable to qualified 3-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 3 years but not more than 4 years, and

"(iii) the portion of any such dividend designated by the trust as allocable to qualified 2-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 2 years but not more than 3 years.

Rules similar to the rules of subparagraph (C) shall apply to any designation under clause (i) or (ii)."

(3) COMMON TRUST FUNDS.—Subsection (c) of section 584 is amended—

(A) by inserting "and not more than 2 years" after "1 year" each place it appears in paragraph (2),

(B) by striking "and" at the end of paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (6) and inserting after paragraph (2) the following new paragraphs:

"(3) as part of its gains from sales or exchanges of capital assets held for more than 2 years but less than 3 years, its proportionate share of the gains of the common trust fund from sales or exchanges of capital assets held for more than 2 years but not more than 3 years,

"(4) as part of its gains from sales or exchanges of capital assets held for more than 3 years but less than 4 years, its proportionate share of the gains of the common trust fund from sales or exchanges of capital assets held for more than 3 years but less than 4 years,

"(5) as part of its gains from sales or exchanges of capital assets held more than 4 years, its proportionate share of the gains of the common trust fund from sales or exchanges of capital assets held for more than 4 years, and".

(e) TECHNICAL AND CONFORMING CHANGES.—

(1) Subparagraph (B) of section 170(e)(1) is amended by inserting "(or, in the case of a taxpayer other than a corporation, the percentage of such gain equal to 100 percent minus the percentage applicable to such gain under section 1202(a))" after "the amount of gain".

(2) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed."

(3)(A) Section 221 (relating to cross reference) is amended to read as follows:

**"SEC. 221. CROSS REFERENCES.**

"(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 221 and inserting "references".

(4) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1(h) or 1201 or the deduction under section 1202 (whichever is appropriate) shall be taken into account."

(5) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 or any exclusion allowable to the estate or trust under section 1203(a). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(6) The last sentence of paragraph (3) of section 643(a) is amended to read as follows: "The deduction under section 1202 and the exclusion under section 1203 shall not be taken into account."

(7) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) shall not be taken into account".

(8) Paragraph (4) of section 691(c) is amended by striking "sections 1(h), 1201, and 1211" and inserting "sections 1(h), 1201, 1202, and 1211".

(9) The second sentence of section 871(a)(2) is amended by inserting "or 1203" after "1202".

(10) Subsection (d) of section 1044 is amended by striking "1202" and inserting "1203".

(11) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 shall not apply" before the period at the end thereof.

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by inserting after the item relating to section 1201 the following new item:

"Sec. 1202. Capital gains deduction for assets held by noncorporate taxpayers more than 2 years."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after January 31, 1997.

(2) CONTRIBUTIONS.—The amendment made by subsection (e)(1) shall apply to contributions on or after February 1, 1997.

**SEC. 3. SURCHARGE ON CAPITAL GAINS ON ASSETS HELD 1 YEAR OR LESS.**

(a) IN GENERAL.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS TAXES.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii).

"(2) SURCHARGE ON NET SHORT-TERM CAPITAL GAIN.—

"(A) IN GENERAL.—If a taxpayer has a net short-term capital gain for any taxable year, the tax imposed by this section (without regard to this paragraph) shall be increased by an amount equal to the sum of—

"(i) 5.6 percent of the taxpayer's 6-month short-term capital gain, plus

"(ii) 2.8 percent of the taxpayer's 12-month short-term capital gain.

"(B) MAXIMUM RATE.—

"(i) IN GENERAL.—Subparagraph (A) shall not be applied to the extent it would result in—

"(I) 6-month short-term capital gain being taxed at a rate greater than 33.6 percent, or

"(II) 12-month short-term capital gain being taxed at a rate greater than 30.8 percent.

"(ii) ORDERING RULE.—For purposes of clause (i), the rate or rates at which 6-month or 12-month short-term capital gain is being taxed shall be determined as if—

"(I) such gain were taxed after all other taxable income, and

"(II) 12-month short-term capital gain were taxed after 6-month short-term capital gain.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) 6-MONTH SHORT-TERM CAPITAL GAIN.—The term '6-month short-term capital gain' means the lesser of—

"(I) the amount of short-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for 6 months or less were taken into account, or

"(II) net short-term capital gain.

"(ii) 12-MONTH SHORT-TERM CAPITAL GAIN.—The term '12-month short-term capital gain' means the lesser of—

"(I) the amount of short-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 6 months but not more than 12 months were taken into account, or

"(II) net short-term capital gain, reduced by 6-month short-term capital gain.

For purposes of clause (i)(I) or (ii)(I), gain may be taken into account only if such gain is properly taken into account on or after February 1, 1997."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after January 31, 1997.

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[From the Washington Post, Apr. 30, 1995]

A TAX CUT THAT WON'T SELL US SHORT

BY REWARDING ONLY LONG-TERM INVESTORS, WE ALL STAND TO GAIN

(By Louis Lowenstein)

The House has passed the Contract With America Tax Relief Bill of 1995 calling for not one, but two cuts in the capital gains tax. The first would cut the maximum rate in half, to just under 20 percent; the second would index the gain to eliminate the effects of inflation. With the Treasury Department estimating the 10-year cost at $92 billion, it is no wonder that critics label this a giveaway to the rich.

Speaker Newt Gingrich and his allies are right about one thing—there is something wrong with the current capital gains tax structure. But their remedy doesn't fix the real problem, which is the refusal of today's investors to focus, as they once did, more on long-term business concerns than on the next twitch in interest rates, unemployment data or market prices. Their solution is not only misguided but a missed opportunity to correct some real wrongs in the tax system.

There is a better way: Cut the capital gains tax rate for people who hold stocks for long periods, and maintain or even raise the rates for short-term investors. This would reward productive investment, discourage speculators and avoid a costly increase in the deficit.

Such a policy has been endorsed in one form or another over the last half-century by such varied folk as Sen. Nancy Kassebaum, investment banker Felix Rohatyn, financier Warren Buffett and economist John Maynard Keynes—as well as by a 1992 Twentieth Century Fund task force on market speculation and corporate governance, of which I was a member. The proposal, so remarkably simple, calls for capital gains rates that would decline dramatically, but only as the holding period lengthens.

In other words, the capital gains tax benefit would be restricted to people who meet the traditional notion of investor. The dictionary defines an investor as "an individual or organization who commits capital to become a partner of a business enterprise." As recently as the beginning of the 1960's, investors still though in terms of owning a share of America, as the New York Stock Exchange used to say. They knew their companies and they held their stocks, on the average, for seven years. For these investors, the rate could be cut drastically—even to zero—after, say, 10 or 15 years. That would help return stock markets to their most useful function, one in which participation should be encouraged.

Stock markets enable corporations to raise long-term capital even while investors enjoy a high degree of liquidity. But those markets are not an end in themselves. Trading in stocks once they are issued can devolve into a game of "musical shares"; the players change places but at the end of the year nothing much else happened.

And, indeed, the concept of owning a share of American business has given way to short-term speculation, particularly by institutional investors. The turnover of shares of New York Stock Exchange companies, which had been 14 percent, a year in the early '60s, soared to 95 percent by the late 1980s. In 1987, the total cost of all that activity—commissions and other trading costs—was about $25 billion, or more than one-sixth of all corporate earnings.

That's a very different kind of market than the market, say, for wheat, which moves grain from farmers to elevator operators to millers to bakers to consumers. When institutions trade the same shares over and over, nothing is created except profits for the brokers. There is only duplication and waste, not gain.

While there is good reason to let the capital gains tax drop as the holding period lengthens, there is absolutely no reason to subsidize an already wasteful, frenetic trading game. At present, to qualify for capital gains treatment one need hold an investment position for just one year. That is why the tax on restless holders should, at the very least, not go down. Remember, it is mutual fund managers and other so-called professionals who are the problem. They spend other peoples commission dollars on their asset allocation and other market-timing strategies.

True, speculation fills gaps in trading in the market, dampening price changes between trades and allowing investors to accumulate or liquidate positions rapidly. But its social value is limited. And while most economists rarely see a market they do not admire, there is no economic reason for the tax system within which the stock market must operate to reinforce its worst tendencies. Even economists increasingly recognize that once the market wheels have been lubricated, added grease helps only the merchants of grease—the brokers.

Worse yet, a market focused on short-term trading values is far less likely to serve its fundamental goals—to allocate capital to its best uses and to encourage shareholders to monitor the corporate managers' performance. As one fund manager said, "It is not our job to be a good citizen at General Motors." But if not him, who?

The more immediate advantages of a steeply graduated capital gains tax are obvious. It can be formulated to be revenue-neutral, or nearly so, thus easing the budgetary pressure. It would obviate the need for inflation-indexing, for the simple reason that tax would fade rapidly as the holding period lengthened. And for those who, like this author and perhaps Gingrich too, dislike the old tax-shelter programs that enriched parasites at the expense of the public, a tax along the lines suggested here would discharge such games. All in all, it is difficult to think of any tax proposal that would accomplish so much at so little cost. The same cannot be said of an across-the-board capital gains cut for the rich to be paid for by the rest of us.

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By Mr. LUGAR:

S. 253. A bill to establish the negotiating objectives and fast-track procedures for future trade agreements; to the Committee on Finance.

THE TRADE AGREEMENT IMPLEMENTATION REFORM ACT

• Mr. LUGAR. Mr. President, development of overseas markets and customers is vital to the future of U.S. agriculture. Demand for food and feed is growing rapidly. U.S. agriculture is efficient and competitive, however, tariff and nontariff barriers remain high in many countries.

As incomes rise in developing countries, their demands for our products will continue to expand. In 1996, agricultural exports reached a record $59.8 billion. Continued growth is vital. World commodity markets are often distorted by import barriers, export subsidies and State trading enterprises. These distortions put American farmers and agribusiness operators at a disadvantage. We must reduce trade barriers and allow our industry to supply the world's markets.

Today I will introduce the Trade Agreement Implementation Reform Act. This bill will grant the President the fast-track authority he needs to negotiate future trade agreements. It is in the national interest for the President to have this authority, but is has lapsed due in part to the way past implementing legislation was handled.

Earlier fast-track authority allowed side-deals, special-interest accommodations and provisions of questionable merit. As a result, public confidence in our trade policies eroded. Reforming the fast-track process and prohibiting these special-interest provisions is one step in gaining support for future trade agreements.

My bill contains two major changes from previous practice. First, legislation submitted under the fast-track authority will contain only provisions absolutely necessary to implement an agreement. Prior law allowed provisions necessary and appropriate and encouraged deals with special interests in exchange for support.

Second, although fast-track legislation is not amendable, we should make one exception. Senators should be able to amend or delete provisions that merely offset revenue losses from tariff changes. Such provisions in the Uruguay round legislation included the controversial Pioneer Preference and pension reform titles. Congress should have the ability to debate and amend items like these, but be subject to overall time limits.

The United States must continue to move forward in its effort to find new markets for our goods and services. We should take advantage of a favorable trade climate in South America by pursuing an agreement with Chile. Chile has advanced bilateral trade agreements with Canada and Mexico and has become an associate member of the Southern Cone Mercosur trading bloc. Before the United States can move forward, the administration must have fast-track authority. The President must now make a case to Congress and the American people that this is a priority of his administration.

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. 253

*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 "Trade Agreement Implementation Reform Act".

**SEC. 2. TRADE NEGOTIATING OBJECTIVES.**

The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 3 are—

(1) to obtain more open, equitable, and reciprocal market access,

(2) to obtain the reduction or elimination of barriers and other trade-distorting policies and practices,

(3) to further strengthen the system of international trading disciplines and procedures, and

(4) to foster economic growth and full employment in the United States and the global economy.

**SEC. 3. TRADE AGREEMENT NEGOTIATING AUTHORITY.**

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, and objectives of this Act will be promoted thereby, the President—

(A) on or before June 1, 2003, may enter into trade agreements with foreign countries, and

(B) may, subject to paragraphs (2) through (5), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1)(B) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment,

(B) reduces the rate of duty on an article over a period greater than 10 years after the first reduction that is proclaimed to carry out a trade agreement with respect to such article, or

(C) increases any rate of duty above the rate that applied on the date of enactment of this Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate amount that the rate of duty on any article may be reduced under paragraph (2) in any year shall not exceed an amount that is equal to the greater of 3 percent ad valorem or 10 percent of the total reduction in the rate of duty for such article required pursuant to a trade agreement entered into under paragraph (1).

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (2) (A) or (B) or paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number, or

(B) one-half of 1 percent ad valorem.

(5) ADDITIONAL LIMITATION.—A rate of duty reduction or increase that may not be proclaimed by reason of paragraph (2) or (3) may take effect only if a provision authorizing such reduction or increase is included within an implementing bill provided for under section 4 of this Act and that bill is enacted into law.

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that any duty or other import restriction imposed by any foreign country or the United States or any other barrier to, or other distortion of, international trade—

(A) unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy,

(B) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, or

(C) the reduction or elimination of such barrier or distortion is likely to result in economic growth or expanded trade opportunities for the United States,

and that the purposes, policies, and objectives of this Act will be promoted thereby, the President may, on or before June 1, 2003, enter into a regional, bilateral, or multilateral trade agreement described in paragraph (2).

(2) DESCRIPTION OF TRADE AGREEMENT.—A trade agreement is described in this paragraph if it is a regional, bilateral, or multilateral trade agreement entered into by the President with a foreign country providing for—

(A) the reduction or elimination of such duty, restriction, barrier, or other distortion, or

(B) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(3) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes substantial progress in meeting the applicable negotiating objectives described in section 2 and the President satisfies the conditions set forth in subsections (c) and (d).

(4) COMPLIANCE WITH URUGUAY ROUND AGREEMENTS AND OTHER OBLIGATIONS.—In determining whether to enter into negotiations with a particular country under this subsection, the President shall take into account whether that country has implemented its obligations under the Uruguay Round Agreements and any other trade agreement with respect to which the United States and such other country are parties.

(5) LIMITATION.—Notwithstanding any other provision of law, no trade benefit shall be extended to any country solely by reason of the extension of any trade benefit to another country under a trade agreement entered into under paragraph (1) with such other country.

(c) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—

(1) GENERAL RULE.—The President, at least 60 calendar days before initiating negotiations on any agreement that is subject to the provisions of subsection (b), shall—

(A) provide written notice to Congress of the President's intent to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations and the specific United States objectives for the negotiations,

(B) before submitting the notice, seek the advice of and consult with the relevant private sector advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), regarding the negotiations and the negotiating objectives the President proposes to establish for the negotiations, and

(C) before and after submission of the notice, consult with Congress regarding the negotiations and the negotiating objectives.

(2) EXCEPTION.—Notwithstanding subsection (b)(3) and section 4(c), the provisions of this subsection shall not apply to an agreement which results from negotiations that were commenced before the date of enactment of this Act and the provisions of this Act regarding implementation shall apply to such agreement, if with respect to such agreement, the President provides notice, seeks advice, and consults in accordance with subparagraphs (A), (B), and (C) of paragraph (1) as soon as practicable after the date of enactment of this Act.

(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) CONSULTATION.—Before entering into any trade agreement under subsection (b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and

(B) each other committee of the House and the Senate, and each joint committee of Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement,

(B) how and to what extent the agreement will achieve the applicable negotiating objectives, and

(C) all matters relating to the implementation of the agreement under section 4.

**SEC. 4. IMPLEMENTATION OF TRADE AGREEMENTS.**

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—Any agreement entered into under section 3(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 120 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) after entering into the agreement, the President submits a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill,

(ii) a statement of any administrative action proposed to implement the trade agreement, and

(iii) the supporting information described in paragraph (3); and

(C) the implementing bill is enacted into law.

(2) RESTRICTIONS ON IMPLEMENTING BILL.—

(A) IN GENERAL.—An implementing bill referred to in paragraph (1) shall contain only necessary provisions.

(B) NECESSARY PROVISION.—For purposes of this Act, the term "necessary provision" means a provision in an implementing bill that—

(i)(I) makes progress in meeting the negotiating objectives contained in section 2 for the trade agreement with respect to which the implementing bill is submitted, and

(II) is required to put into effect, or sets forth a procedure to carry out, a substantive provision of the trade agreement with respect to which the implementing bill is submitted, or

(ii) is a revenue provision.

(3) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(B)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable negotiating objectives contained in section 2, and

(ii) setting forth the reasons of the President regarding, among other things—

(I) how and to what extent the agreement makes progress in achieving the applicable negotiating objectives referred to in clause (i), and why and to what extent the agreement does not achieve other negotiating objectives,

(II) how the agreement serves the interests of United States commerce,

(III) why the implementing bill and proposed administrative action is necessary to carry out the agreement,

(IV) how the provisions of the implementing bill are necessary to comply with the applicable negotiating objectives, and

(V) how any revenue provision in the implementing bill is necessary to comply with the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) OTHER CONSIDERATIONS.—To ensure that a foreign country that receives benefits under a trade agreement entered into under section 3(b) is subject to the obligations imposed by such agreement, the President shall recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(b) APPLICATION OF CONGRESSIONAL "FAST TRACK" PROCEDURES TO IMPLEMENTING BILLS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection and subsection (c), the provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) (hereafter in this Act referred to as "fast track procedures") apply to implementing bills submitted with respect to trade agreements entered into under section 3(b) on or before June 1, 2003 (or if extended under section 5, June 1, 2005).

(2) CERTAIN POINTS OF ORDER AND AMENDMENTS IN ORDER.—

(A) IN GENERAL.—

(i) POINTS OF ORDER.—A point of order may be made by any Senator against a provision in an implementing bill that is not a necessary provision (as defined in subsection (a)(2)(B)). If such point of order is sustained by a majority of the Members of the Senate duly chosen and sworn, the provision shall be stricken.

(ii) AMENDMENTS IN ORDER.—The provisions of section 151(d) of the Trade Act of 1974 shall not apply to a provision in an implementing bill that is a revenue provision and an amendment to a revenue provision shall be in order if the amendment meets the requirements of paragraph (4).

(B) TIME LIMIT.—Sections 151(f)(2) and 151(g)(2) of such Act shall be applied by substituting "25 hours" for "20 hours" each place such term appears and such time limits shall include all amendments to and points of order made with respect to an implementing bill.

(C) RULES FOR DEBATE IN THE SENATE.—Debate in the Senate on any amendment to or point of order made with respect to an implementing bill under this paragraph shall be limited to not more than 1 hour, to be equally divided between, and controlled by the mover and the manager of the implementing bill, except that in the event the manager of the implementing bill is in favor of any such amendment, the time in opposition thereto shall be controlled by the minority leader or the minority leader's designee. The majority and minority leader may, from the time under their control on the passage of an implementing bill, allot additional time to any Senator during the consideration of any amendment. A motion in the Senate to further limit debate on an amendment to any implementing bill is not debatable.

(3) REVENUE PROVISION.—For purposes of this Act, the term "revenue provision" means a provision in an implementing bill that—

(A) is not required to put into effect, or does not set forth a procedure to carry out, a substantive provision of the trade agreement with respect to which the implementing bill is submitted,

(B) is not inconsistent with the obligations of the United States under the trade agreement with respect to which the implementing bill is submitted, and

(C) either decreases specific budget outlays for the fiscal years covered by the implementing bill or increases revenues for such fiscal years in order to comply with the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) REQUIREMENTS FOR AMENDMENT.—It shall not be in order in the House of Representatives or the Senate to consider any amendment to a revenue provision in an implementing bill that would have the effect of increasing any specific budget outlays above the level of such outlays provided in the implementing bill for the fiscal years covered by the implementing bill or would have the effect of reducing any specific revenues below the level of such revenues provided in the implementing bill for such fiscal years, unless such amendment makes at least an equivalent reduction in other specific budget outlays, an equivalent increase in other specific Federal revenues, or an equivalent combination thereof for such fiscal years. For purposes of this paragraph, the levels of budget outlays and Federal revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate or of the House of Representatives, as the case may be.

(5) DIFFERENCE BETWEEN THE 2 HOUSES.—If the text of implementing bills described in subsection (b)(1) concerning any matter is not identical—

(A) the Senate shall vote passage on the implementing bill introduced in the Senate, and

(B) the text of the implementing bill passed by the Senate shall, immediately upon its passage (or, if later, upon receipt of the implementing bill passed by the House), be substituted for the text of the implementing bill passed by the House of Representatives, and such implementing bill, as amended shall be returned with a request for a conference between the 2 Houses.

(6) AMENDMENT BETWEEN HOUSES.—Except as provided in paragraph (7)—

(A) overall debate on all motions necessary to resolve amendments between the Houses on an implementing bill under this subsection shall be limited to 2 hours at any stage of the proceedings; and

(B) debate on any motion, appeal, or point of order under this subsection which is submitted shall be limited to 30 minutes, and such time shall be equally divided and controlled by, the majority leader and the minority leader or their designees.

(7) PROCEDURES RELATING TO CONFERENCE REPORTS.—

(A) APPOINTMENT OF CONFEREES.—A request for a conference shall be accepted and conferees shall be appointed—

(i) in the case of the Senate, by the President pro tempore, and

(ii) in the case of the House of Representatives, by the Speaker of the House,

not later than 3 calendar days after such request is made.

(B) GENERAL RULES FOR CONSIDERATION OF CONFERENCE REPORT.—Consideration in a House of Congress of the conference report on an implementing bill described in paragraph (5), including consideration of all amendments in disagreement (and all amendments thereto), and consideration of all debatable motions and appeals in connection therewith, shall be limited to 4 hours, to

be equally divided between, and controlled by, the majority leader and the minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(C) FAILURE OF CONFERENCE TO ACT.—If the committee on conference on an implementing bill considered under this section fails to submit a conference report within 10 calendar days after the conferees have been appointed by each House, any Member of either House may introduce an implementing bill containing only the text of the draft implementing bill of the President on the next day of session thereafter and the implementing bill shall be treated as a conference report and considered as provided in subparagraph (B).

(c) ADDITIONAL LIMITATIONS ON "FAST TRACK" PROCEDURES.—

(1) PRENEGOTIATION REQUIREMENTS.—

(A) IN GENERAL.—The fast track procedures shall not apply to any implementing bill that contains a provision approving any trade agreement which is entered into under section 3(b) with any foreign country if—

(i) the requirements of section 3(c) are not met with respect to the negotiation of such agreement; or

(ii) both Houses of Congress agree to a resolution disapproving the negotiation of such agreement before the later of—

(I) the close of the 60-calendar day period beginning on the date notice is provided under section 3(c); or

(II) the close of the 15-day period beginning on the date such notice is provided, computed without regard to the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of Congress sine die, and any Saturday or Sunday, not otherwise excluded under this subclause, when either House of Congress is not in session.

(B) RESOLUTION DISAPPROVING NEGOTIATIONS.—A resolution referred to in subparagraph (A)(ii) is a resolution of either House of Congress with which the other House of Congress concurs, the sole matter after the resolving clause of which is as follows: "That Congress disapproves the negotiation of the trade agreement notice of which was provided to Congress on ____ under section 3(c) of the Trade Agreement Implementation Reform Act.", with the blank space being filled with the appropriate date.

(2) LACK OF CONSULTATIONS.—

(A) IN GENERAL.—The fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 3(b) if both Houses of Congress separately agree to procedural disapproval resolutions within any 60 calendar day period.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—For purposes of this paragraph, the term "procedural disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to consult with Congress on trade negotiations and trade agreements in accordance with the provisions of the Trade Agreement Implementation Reform Act and, therefore, the provisions of section 151 of the Trade Act of 1974 shall not apply to any implementing bill submitted with respect to any trade agreement entered into under section 3(b) of the Trade Agreement Implementation Reform Act, if, during the 60 calendar day period beginning on the date on which this resolution is agreed to by ____, the ____ agrees to a procedural disapproval resolution (within the meaning of section 4(c)(2)(B) of the Trade Agreement Implementation Reform Act).", with the first blank space being filled with the name of the resolving House of Congress and the second blank space being filled with the name of the other House of Congress.

(3) PROCEDURES FOR CONSIDERING RESOLUTIONS.—

(A) IN GENERAL.—Resolutions under paragraph (1) and procedural disapproval resolutions under paragraph (2)—

(i) in the House of Representatives—

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules,

(II) shall be jointly referred to the Committee on Ways and Means and the Committee on Rules, and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be original resolutions of the Committee on Finance.

(B) APPLICATION OF SECTION 152.—The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to resolutions under paragraph (1) and to procedural disapproval resolutions under paragraph (2).

(C) SPECIAL RULES RELATING TO HOUSE.—It is not in order for the House of Representatives to consider any resolution under paragraph (1) or any procedural disapproval resolution under paragraph (2) that is not reported by the Committee on Ways and Means and the Committee on Rules.

**SEC. 5. EXTENSION OF TRADE AGREEMENTS AUTHORITY AND FAST TRACK PROCEDURES.**

(a) EXTENSION OF FAST TRACK PROCEDURES TO IMPLEMENTING BILLS.—

(1) IN GENERAL.—The fast track procedures shall, as modified by this Act, be extended to implementing bills submitted with respect to trade agreements entered into under section 3(b) after May 31, 2003, and before June 1, 2005, if (and only if)—

(A) the President requests such extension under paragraph (2), and

(B) neither House of Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2003.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the fast track procedures should be extended to implementing bills described in paragraph (1), the President shall submit to Congress, not later than March 1, 2003, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under section 3(b) and the anticipated schedule for submitting such agreements to Congress for approval,

(B) a description of the progress that has been made in regional, bilateral, and multilateral negotiations to achieve the purposes, policies, and objectives of this Act, and a statement that such progress justifies the continuation of negotiations, and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) REPORT TO CONGRESS BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to Congress under paragraph (2). The Advisory Committee shall submit to Congress as soon as practicable, but not later than March 1, 2003, a written report that contains—

(A) its views regarding the progress that has been made in regional, bilateral, and multilateral negotiations to achieve the purposes, policies, and objectives of this Act, and

(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(4) REPORTS MAY BE CLASSIFIED.—The reports submitted to Congress under paragraphs (2) and (3), or any portion of the reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—

(A) IN GENERAL.—For purposes of this subsection, the term "extension disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the ____ disapproves the request of the President for the extension, under section 5(a)(1) of the Trade Agreement Implementation Reform Act, of the provisions of section 151 of the Trade Act of 1974 (as modified by section 4(b) of the Trade Agreement Implementation Reform Act) to any implementing bill submitted with respect to any trade agreement entered into under section 3(b) of the Trade Agreement Implementation Reform Act after June 1, 2003, because sufficient tangible progress has not been made in trade negotiations.", with the blank space being filled with the name of the resolving House of Congress.

(B) PROCEDURE.—Extension disapproval resolutions—

(i) may be introduced in either House of Congress by any Member of such House; and

(ii) shall be jointly referred, in the House of Representatives, to the Committee on Ways and Means and the Committee on Rules.

(C) APPLICATION OF SECTION 152.—The provisions of sections 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) OTHER REQUIREMENTS.—It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules; or

(iii) either House of Congress to consider an extension disapproval resolution that is reported to such House after May 15, 2003.

(b) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (a) of this section, and section 4 (b) and (c), are enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

**SEC. 6. CONFORMING AMENDMENTS.**

(a) IN GENERAL.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 and following) is amended as follows:

(1) IMPLEMENTING BILL.—Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by inserting "section 4 of the Trade Agreement Implementation Reform Act," after "the Omnibus Trade and Competitiveness Act of 1988,".

(2) ADVICE FROM INTERNATIONAL TRADE COMMISSION.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 123 of this Act, section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988, or section 3 of the Trade Agreement Implementation Reform Act", and

(ii) in paragraph (2), by inserting "or section 3 (a) or (b) of the Trade Agreement Implementation Reform Act" after "1988",

(B) in subsection (b), by inserting "of the Omnibus Trade and Competitiveness Act of 1988 or section 3(a)(3) of the Trade Agreement Implementation Reform Act" before the end period, and

(C) in subsection (c), by striking "of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988," and inserting "of this Act, section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or section 3 of the Trade Agreement Implementation Reform Act".

(3) HEARINGS AND ADVICE CONCERNING NEGOTIATIONS.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking "or section 1102 of the Omnibus Trade and Competitiveness Act of 1988," each place it appears and inserting ", section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or section 3 of the Trade Agreement Implementation Reform Act,".

(4) PREREQUISITES FOR OFFERS.—Section 134(b) (19 U.S.C. 2154(b)) is amended by inserting "or section 3 of the Trade Agreement Implementation Reform Act" after "1988".

(5) INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS.—Section 135(a)(1)(A) (19 U.S.C. 2155(a)(1)(A)) is amended by inserting "or section 3 of the Trade Agreement Implementation Reform Act" after "1988".

(6) MEETING OF ADVISORY COMMITTEES AT CONCLUSION OF NEGOTIATIONS.—Section 135(e) (19 U.S.C. 2155(e)) is amended—

(A) in paragraph (1), by inserting "or section 3 of the Trade Agreement Implementation Reform Act" after "1988" the first two places it appears, and by inserting "or section 4(a)(1)(A) of the Trade Agreement Implementation Reform Act" after "1988" the third place it appears; and

(B) in paragraph (2), by inserting "or section 2 of the Trade Agreement Implementation Reform Act" after "1988".

(b) APPLICATION OF SECTIONS 125, 126, AND 127 OF THE TRADE ACT OF 1974.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136, and 2137)—

(1) any trade agreement entered into under section 3 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 3 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974 (19 U.S.C. 2112).

**SEC. 7. ADVISORY COMMITTEE REPORTS.**

Section 135(e)(1) of the Trade Act of 1974 (19 U.S.C. 2155) is amended by striking "the date on which" and inserting "45 days after".

TRADE AGREEMENT IMPLEMENTATION REFORM ACT

Sec. 2. Negotiating objectives.—Overall negotiating objectives for all trade agreements are included in the act. These objectives do not provide authority to use trade negotiations to achieve environmental or labor policy goals. Specific negotiating objectives are to be the subject of consultations between the President and Congress prior to the initiation of negotiations. (See sec. 3(c))

Sec. 3(a). General tariff authority.—As in previous trade acts, authority is delegated to the President to negotiate and proclaim reciprocal tariff reductions without further Congressional action. This authority expires on June 1, 2003.

Sec. 3(b). Authority to negotiate tariff and non-tariff barriers.—The President is given authority to negotiate bilateral, regional, or multilateral trade agreements, including reduction or elimination of non-tariff barriers and subsidies.

Sec. 3(c)&(d). Notice and consultation before negotiation.—In addition to consulting with Congress before an agreement is entered into (as the 1988 act requires), this bill would require the President to notify Congress 60 days before initiating any trade negotiations and to consult with Congress and the private sector advisory committees concerning the specific negotiating objectives. Congress must also be notified of negotiations commenced before enactment of this act for the resulting agreement to receive fast track treatment.

Sec. 4(a). Notification.—In order for a trade agreement to be considered under fast track procedures, the President must notify Congress at least 120 days before the agreement is entered into. Once the agreement is entered into, the President submits a draft implementing bill and supporting documentation. Only necessary provisions are permitted in the implementing bill.

Sec. 4(b). Application of fast track procedures.—Fast track authority is available for agreements entered into by June 1, 2003, with the possibility of a two year extension for the deadline. In contrast to previous acts, the fast track authority provided for in this bill would permit amendments to provisions of the implementing bill that are revenue provisions related to pay/go. If there is no agreement in conference over the revenue amendments, the unamended implementing bill submitted by the President would be voted on.

Sec. 4(c). Disapproval resolution.—Congress may revoke fast track within the 60 day consultation period prior to initiation of negotiations. Fast track can also be revoked at any time during the negotiations for lack of consultations if disapproval resolutions are passed separately by both Houses within any 60 day period.

Sec. 5. Extension of fast track procedures.—Fast track procedures apply to any agreement entered into before June 1, 2003, with the possibility of a two year extension. The extension will be denied if either House passes a disapproval resolution.

Sec. 6. Conforming amendments.

Sec. 7. Advisory committee reports.—Private sector advisory committee reports have to be submitted not more than 45 days after the President notifies Congress of his intent to enter into an agreement.•

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By Mr. KOHL:

S. 254. A bill to amend part V of title 28, United States Code, to require that the Department of Justice and State attorneys general are provided notice of a class action certification or settlement, and for other purposes; to the Committee on the Judiciary.

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## THE CLASS ACTION FAIRNESS ACT OF 1997

• Mr. KOHL. Mr. President, I introduce the Class Action Fairness Act of 1997. This legislation is necessary to address a troubling and growing problem in class action litigation—unfair and abusive settlements that ignore the best interests of injured plaintiffs while unscrupulous defendants and attorneys reap the rewards.

Let me give you an example of this situation. It involves a class action settlement that affected a constituent of mine, Martha Preston of Baraboo, WI. Ms. Preston was a member of a class action lawsuit filed in Alabama State Court against BancBoston Mortgage Corp. The suit alleged that the bank was holding an excess balance of Ms. Preston's money in her mortgage escrow account. As with many class members in this case—and in most class action lawsuits—Ms. Preston did not actually initiate the suit or even have knowledge that her mortgage company was being sued on her behalf. But a group of lawyers who claimed to represent her and all other people in a similar situation filed the suit on behalf of the class and negotiated a settlement of the suit, as they are allowed to under the law.

The settlement they negotiated provided that the bank would refund the excess money that it was holding and provide a small amount of compensation to the plaintiffs for lost interest. Pursuant to the settlement, Ms. Preston received a check for $4.38 to compensate her for the interest she would have earned had the excess money been invested. A few months later, a miscellaneous disbursement of $80.94 showed up on her escrow account. That $80 went to pay the class action attorneys their fee for getting her $4.38. So Ms. Preston ended up losing $75 as the result of a lawsuit filed without her knowledge and that purported to be to her advantage.

Unfortunately, Ms. Preston's losses did not end there. She was understandably upset at what happened to her. So she found an attorney who was willing to represent her pro bono. She sued the attorneys who had negotiated the agreement that cost her $75. No sooner had she sued them for what they had done, than these attorneys turned around and sued her and her pro bono attorneys in Alabama—a State she has never visited—for abuse of process and malicious prosecution and asked for $25 million in damages against her. Both of these lawsuits are ongoing; indeed the

suit that Ms. Preston filed is now the subject of a petition for a writ of certiorari to the Supreme Court. Not only did Ms. Preston lose $75, but now as a result of trying to defend herself from being fleeced she is defending a $25 million lawsuit against her.

The Preston case is especially egregious. Unfortunately it is not uncommon. The system of class action law suits has created a climate where this kind of abuse is possible.

A class action is a lawsuit in which an attorney not only represents an individual plaintiff but, in addition, seeks relief for all those individuals who have suffered an injury similar to the plaintiff. For example, a suit brought against a pharmaceutical company by a person suffering from the side effects of a drug can, if the court approves it as a class action, be expanded to cover all individuals who used the drug.

Often, these suits are settled. The settlement agreements provide money and/or other forms of compensation. The attorneys who brought the class action suit also get paid for their work. All class members are usually notified of the terms of the settlement and frequently—but not always—given the chance to withdraw from the agreement if they do not want to be part of it. A court must ultimately approve a settlement agreement.

Many of these suits are brought and settled fairly and in good faith. Unfortunately, we also know that there are a few unscrupulous lawyers who file class actions in search of big attorney fees rather than to get compensation for victims. And the class action system does not adequately protect class members from such predatory acts. The primary problem is that the client in a class action is a diffuse group of thousands of individuals scattered across the country. The group is so diffuse that it is incapable of exercising meaningful control over the litigation. As a result, while in theory the class action lawyers must be responsive to their clients, in practice, the lawyers control all aspects of the litigation.

Moreover, when a class action is settled, the amount of the attorneys fee is negotiated between the plaintiffs' lawyers and the defendants. But in most cases the fee is paid by the class members—the only party that does not have a seat at the bargaining table.

In addition, class actions are now being used by defendants as a tool to limit their future liabilities. Class actions are being settled that cover all individuals exposed to a particular substance but whose injuries have not yet manifest themselves. As Prof. John Coffee of Columbia Law School has written, "the class action is providing a means by which unsuspecting future claimants suffer the extinguishment of their claims even before they learn of their injury."

In light of the incentives that are driving the parties, it is easy to see how the class members can be left out in the cold. Plaintiffs attorneys and corporate defendants can reach agreements that satisfy their respective interests—and even the interests of the name class plaintiffs—but that short sell the interests any class members who are not vigilantly monitoring the litigation.

Although members of class actions get notices of settlements, the settlements are often written in incomprehensible legalese. Let me give you an example of a recent notice:

"The Rebate payable to the eligible member [sic] of the Open Class and the Closed Class shall be an amount equal to (i) the Average Surplus, as determined by the above subparagraph, multiplied by (ii) 50% multiplied by (iii) 3% multiplied by (a) 1 if the loan was serviced for at least 1 year but less than . . . ."

Even well trained attorneys are hard pressed to understand these notices. But these long, finely printed and intricate letters are being sent to class members. And on the basis of these notices, people's legal rights are being eliminated and in cases like Ms. Preston's they are being injured.

We all know that class action suits can result in significant and important benefits for class members and for our society. Class actions have been used to desegregate racially divided schools, to obtain redress for victims of employment discrimination, and to compensate individuals exposed to toxic chemicals or defective products. Class actions increase access to our civil justice system because they enable people to pursue claims that collectively that would otherwise be too expensive to litigate.

The difficulty in any effort to improve a basically good system is in weeding out the abuses without causing undue damage. The legislation I propose attempts to do this. It does not limit anyone's ability to file a class action or to settle a class action. It seeks to address the problem in two ways. First, it requires that State attorneys general be notified about potential class action settlements that would affect residents of their states. With this systematic notification in place, the attorneys general can intervene in cases where they think the settlements are unfair. Second, the legislation requires that class members be notified of a potential settlement in clear, easily understood English—not legal jargon.

Let me emphasize the limited scope of this measure: we do not require that State attorney generals do anything with the notice that they receive. No obligations are imposed upon them at all, although we are hopeful that they will act when appropriate. Moreover, we do not give the attorneys general any new or special rights to intervene in the settlements. They must work within current law.

The simple goal of this legislation is to provide better information and better consumer protection through greater knowledge. We do not want to close the courthouse door to meritorious cases, but merely assure that people are provided with meaningful information so that they can defend themselves.

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. 254

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This section may be cited as the "Class Action Fairness Act of 1997".

**SEC. 2. NOTIFICATION REQUIREMENT OF CLASS ACTION CERTIFICATION OR SETTLEMENT.**

(a) IN GENERAL.—Part V of title 28, United States Code, is amended by inserting after chapter 113 the following new chapter:

"CHAPTER 114—CLASS ACTIONS

"Sec.
"1711. Notification of class action certifications and settlements.

**§ 1711. Notification of class action certifications and settlements**

"(a) For purposes of this section, the term—

"(1) 'class' means a group of similarly situated individuals, defined by a class certification order, that comprise a party in a class action lawsuit;

"(2) 'class action' means a lawsuit filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State rules of procedure authorizing a lawsuit to be brought by 1 or more representative individuals on behalf of a class;

"(3) 'class certification order' means an order issued by a court approving the treatment of a lawsuit as a class action;

"(4) 'class member' means a person that falls within the definition of the class;

"(5) 'class counsel' means the attorneys representing the class in a class action:

"(6) 'electronic legal databases' means computer services available to subscribers containing text of judicial opinions and other legal materials, such as LEXIS or WESTLAW;

"(7) 'official court reporter' means a publicly available compilation of published judicial opinions;

"(8) 'plaintiff class action' means a class action in which the plaintiff is a class; and

"(9) 'proposed settlement' means a settlement agreement between the parties in a class action that is subject to court approval before it becomes binding on the parties.

"(b) This section shall apply to)

"(1) all plaintiff class actions filed in Federal court; and

"(2) all plaintiff class actions filed in State court in which—

"(A) any class member resides outside the State in which the action is filed; and

"(B) the transaction or occurrence that gave rise to the lawsuit occurred in more than one State.

"(c) No later than 10 days after a proposed settlement in a class action is filed in court, class counsel shall serve the State attorney

general of each State in which a class member resides and the Department of Justice as if they were parties in the class action with—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints;

"(2) notice of any future scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A) their rights to request exclusion from the class action; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible the names of class members who reside in each State attorney general's respective State and their estimated proportionate claim to the entire settlement; or

(B) if not feasible, a reasonable estimate of the number of class members residing in each attorney general's State and their estimated proportionate claim to the entire settlement; and

"(8) any written judicial relating to the materials described under paragraphs (3) through (6).

"(d) A hearing to consider final approval of a proposed settlement may not be held earlier than 120 days after the date on which the State attorneys general and the Department of Justice are served notice under subsection (c).

"(f) Any court with jurisdiction over a plaintiff class action shall require that—

"(1) any written notice provided to the class through the mail or publication in printed media contain a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the legal consequences of joining the class action.

"(C) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) a good faith estimate of the dollar amount of any attorney's fee if possible; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(D) any other material matter; and

"(2) any notice provided through television or radio to inform the class of its rights to be excluded from a class action or a proposed settlement shall, in plain, easily understood language—

"(A) describe the individuals that may potentially become class members in the class action; and

"(B) explain that the failure of individuals falling within the definition of the class to exercise their right to be excluded from a class action will result in the individual's inclusion in the class action.

"(g) Compliance with this section shall not immunize any party from any legal action under Federal or State law, including actions for malpractice or fraud.

"(h)(1) A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action lawsuit if the class member resides in a State where the State attorney general has not been provided notice and materials under subsection (c). The rights created by this subsection shall apply only to class members or any person acting on their behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(2) Nothing in this chapter shall be construed to impose any obligations, duties, or responsibilities upon State attorneys general" or the attorney general of the United States.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V of title 28, United States Code, is amended by inserting after the item relating to chapter 113 the following:

"114. Class Actions 1711".

SEC. 3.

APPLICABILITY.

This section and the amendments made by this section shall apply to all class action lawsuits filed after or pending one year after the date of enactment of this Act.●

## ADDITIONAL COSPONSORS

S. 4

At the request of Mr. ASHCROFT, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 11

At the request of Mr. INOUYE, his name was added as a cosponsor of S. 11, a bill to reform the Federal election campaign laws applicable to Congress.

S. 19

At the request of Mr. DODD, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 19, a bill to provide funds for child care for low-income working families, and for other purposes.

S. 29

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 29, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 30

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 30, a bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from inheritance taxes.

S. 31

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 31, a bill to phase-out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 86

At the request of Ms. SNOWE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 86, a bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decision making at the National Cancer Institute.

S. 122

At the request of Mr. MOYNIHAN, the name of the Senator from West Virginia [Mr. BYRD], was added as a cosponsor of S. 122, a bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax-exempt financing of professional sports facilities.

S. 127

At the request of Mr. MOYNIHAN, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from California [Mrs. FEINSTEIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 127, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes.

S. 183

At the request of Mr. DODD, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 183, a bill to amend the Family and Medical Leave Act of 1993 to apply the Act to a greater percentage of the United States workforce, and for other purposes.

S. 207

At the request of Mr. MCCAIN, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from Maine [Ms. COLLINS] were added as cosponsors of S. 207, a bill to review, reform, and terminate unnecessary and inequitable Federal subsidies.

## SENATE RESOLUTION 36—RELATIVE TO RETIREMENTS

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 36

Whereas Arthur Curran, Donn Larson and Richard Gibbons will retire from the Senate on January 31, 1997;

Whereas Arthur Curran was appointed as a Senate Doorkeeper in 1975 by Vice President Rockefeller;

Whereas Arthur Curran rose to the post of Superintendent of Doorkeepers and has dutifully served in that post for the last 15 years;

Whereas Donn Larson first began his Senate career under an appointment from Senator Milton Young in 1959;

Whereas Donn Larson served in the Republican cloakroom from 1961 to 1968, leaving to work in the Federal Government until his return to the Senate in 1977, where he has served as deputy supervisor of the Doorkeepers since 1981;

Whereas Richard Gibbons has served as a Senate Doorkeeper since 1977, acting as press liaison outside the President's room just off the Senate floor;

Whereas since the 103d Congress Richard Gibbons has served in the Senate Chamber and has diligently assisted both Senators and staff alike in a myriad of tasks in addition to his role of helping to maintain order in the Chamber;

Whereas each of these three gentlemen has faithfully served the Senate and they have carried out their duties with efficiency and good nature: Now, therefore, be it

*Resolved*, That the Senate extends its thanks to Arthur Curran, Donn Larson, and Richard Gibbons for their many years of dedicated service and wishes them well in their future aspirations.

The Secretary of the Senate shall transmit a copy of this resolution to Arthur Curran, Donn Larson, and Richard Gibbons.

## SENATE RESOLUTION 37—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. HELMS, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 37

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations, is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $2,710,573, of which amount (1) not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $2,782,749, of which amount (1) not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1997, and February 28, 1998, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

## SENATE RESOLUTION 38—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURE BY THE COMMITTEE ON ARMED SERVICES

Mr. THURMOND, from the Committee on Armed Services, reported the following original resolutions; which was referred to the Committee on Rules and Administration:

S. RES. 38

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, and reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel or any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $2,704,397.

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $2,776,389.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1997, and February 28, 1998, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquires and Investigations."

## SENATE RESOLUTION 39—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. THOMPSON, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 39

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998 through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $11,050,721, of which amount (1) not to exceed $375,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,470 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $4,653,386, of which amount (1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,470 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. (a) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(1) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of government funds in transactions, contracts, and activities of the government or of government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(2) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) organized criminal activities which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud and the use of offshore banking and corporate facilities to carry out criminal objectives;

(5) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(A) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(C) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships;

(6) The efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of exports of scarce fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(L) research into discovery and development of alternative energy supplies; and

(7) the efficiency and economy of all branches and functions of government with particular reference to the operations and management of Federal regulatory policies and programs: *Provided*, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(b) Nothing contained in this section shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, is authorized, in its, his, or their discretion (1) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (4) to administer oaths, and (5) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(d) All subpoenas and related legal processes of the committee and its subcommittee authorized under S. Res. 71 of the One Hundredth Third Congress, second session, are authorized to continue.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1995, and February 1996, respectively.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery keeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 6. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

## SENATE RESOLUTION 40—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON SMALL BUSINESS

Mr. BOND, from the Committee on Small Business, reported the following original resolution; which was referred to the Committee on Small Business:

S. RES. 40

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $1,084,471, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by

section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period of March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $1,112,732, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1997, and February 28, 1998, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

## SENATE RESOLUTION 41—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. GRASSLEY, from the Special Committee on Aging, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 41

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Special Committee on Aging is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion—

(1) to make expenditures from the contingent fund of the Senate,

(2) to employ personnel, and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $1,133,674, of which amount not to exceed $15,000 may be expended for the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $1,162,865, of which amount not to exceed $15,000 may be expended for the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required—

(1) for the disbursement of salaries of employees paid at an annual rate,

(2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate,

(3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate,

(4) for payments to the Postmaster, United States Senate,

(5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or

(6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations.".

## NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Tuesday, February 4, 1997, Wednesday, February 5, 1997, and Thursday, February 6, 1997, all at 9:30 a.m. to receive testimony from committee chairmen and ranking members on their committee funding resolutions for 1997 and 1998.

For further information concerning this hearing, please contact Chris Shunk of the committee staff on 224-9528.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that the hearing scheduled before the full Energy and Natural Resources Committee to receive testimony regarding S. 210, "To Amend the Organic Act of Guam, the Revised Organic Act of the Virgin Islands, and the Compact of Free Association Act, and for other purposes." The hearing will take place on Thursday, February 6, 1997, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call James Beirne, Senior counsel (202) 224-2564 or Betty Nevitt, staff assistant at (202) 224-0765.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 11 a.m. on Thursday, January 30, 1997, in executive session, to discuss committee organization and rules.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, January 30, 1997, for purposes of conducting a full committee hearing which is scheduled to begin at 10 a.m. The purpose of this oversight hearing is to consider the nomination of Federico F. Peña to be Secretary of Energy.

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

COMMITTEE ON FINANCE

Mr. LOTT. Mr. President, I ask unanimous consent that the full Committee on Finance be permitted to meet to conduct a hearing on Thursday, January 30, 1997, beginning at 10 a.m. in room 215-Dirksen.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, January 30, 1997, immediately after the first rollcall vote to hold a business meeting to vote on pending items.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, January 30, at 10 a.m. for the purpose of continuing its organizational meeting and approval of the committee funding resolution.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized

to meet during the session of the Senate on Thursday, January 30, 1997 at 2:30 p.m. to conduct a business meeting to approve the committee's budget for the 105th Congress. The business meeting will be held in room 485 of the Russell Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet for an executive business meeting to take up committee business, and to mark up the S. Res. 1, the Balanced Budget Amendment, during the session of the Senate on Thursday, January 30, 1997, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, January 30, 1997, at 10 a.m. to hold an executive business meeting.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, January 30, 1997, beginning at 9:30 a.m. to hold a hearing on FEC Authorization and Campaign Finance Reform.

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

## ADDITIONAL STATEMENTS

### THE CORPORATE SUBSIDY REFORM COMMISSION ACT

• Mr. THOMPSON. Mr. President, we introduced legislation earlier this week to establish a Corporate Subsidy Review, Reform, and Termination Commission. We know that many Americans believe that Government operates for the benefit of the few and the privileged. They believe the system does not operate fairly, and their lack of confidence in us affects our ability to enact the reforms and make the hard decisions which must be made if we are to get our country back on the right track again.

Last Congress, we actively sought to reform many areas of Government spending—we reduced Government spending by $53 billion, reformed the welfare system, restructured farm supports, rewrote telecommunications law, reformed the Federal procurement system, and adopted major immigration reforms. We identified and reformed areas of Government spending which needed fundamental reform because they did not work as well as they should.

As part of this process, a bipartisan group of Senators examined some programs whose primary beneficiaries are profit-making enterprises and proposed reforming 12 specific programs which are characterized by some element of corporate subsidization. We chose these examples to demonstrate that such programs exist in virtually every industry, from military construction, to energy production, to consumer product advertising. While all the sponsors were not uniformly enthusiastic about each of the 12 examples, we believed the package as a whole underscored an important point and demonstrated our willingness to examine Government spending in every area. This proposal was offered as an amendment to the reconciliation bill, and received the support of only one-fourth of the Senate. Clearly, this problem needed to be attacked in a different way.

As a result, we introduced another bill last Congress which was reported favorably by the Committee on Governmental Affairs. It is that bill we introduced this week to create a Commission to fairly and independently review corporate subsidies and make recommendations to the President and the Congress for the retention, reform, or termination of such subsidies.

Why establish a Commission and a new process to do what we could and should do directly?

First, this Commission will do what we cannot do well: Make an overall informed assessment of all programs, on both the spending and revenue sides, at one time. Over the years, we have created an intricate, interwoven system of subsidies, taxes, and exemptions. For example, a Tennessee utility which would have been affected by the spending cuts we proposed last Congress pointed out to me that they in turn are competing against other energy providers who receive subsidies in the form of Federal tax exemptions.

Second, our experience last Congress demonstrated that voting hit or miss on individual items is not going to be successful. One person's pork is another's prize. And no one wants to give up their prize program if there isn't shared sacrifice. With the commission approach, we will know that all programs have been examined and those which provide unjustified subsidies have been exposed.

Third, the members of the Commission will be appointed specifically for this purpose by the President and the Congress. They will possess the expertise, authority, and stature necessary to do the job.

Fourth, the Commission's recommendations will not be buried in the corner of a Federal agency or a congressional committee. While the President and Congress will be able to propose amendments to or outright reject the Commission's recommendations, they must address them.

S. 207 incorporates provisions to accommodate many of the concerns raised last Congress. This bill takes special note of the Federal Government's role in the area of international trade. In establishing the Commission's review of Federal subsidies, it is not our intent to unduly disadvantage U.S. business interests as they compete in the international marketplace. We recognize that foreign governments frequently subsidize business interests in their own countries. Eliminating a particular program or subsidy might make sense in a purely domestic context, but such action could place a U.S. company at a severe disadvantage when competing with a foreign company which has the benefit of a subsidy from its government. A U.S. Government subsidy may have been instituted in order to offset a similar subsidy to foreign competitors by foreign governments, with the intent of leveling the playing field for U.S. industry. To eliminate such a subsidy not only affects the direct U.S. business interests in global competition, but also reduces the leverage of the U.S. Government in trade negotiations. Having matched a foreign government subsidy, the U.S. Government may call for negotiations to end mutually the practice. We recognize the importance of those issues and have included provisions to address carefully the Federal Government's role in international trade.

Mr. President, we must require no less of profit-making enterprises than we ask of all Americans. It is a matter of fairness and shared sacrifice. At a time when the national debate is focused on getting control of the budget, now and in the future, we cannot afford to provide inappropriate corporate subsidies which undermine our efforts and which distort the free market. Perhaps most importantly, enactment of this legislation will demonstrate that Congress and the executive branch are serious about addressing and correcting a system which the American public as a whole sees as benefiting the few with access and influence, rather than serving the general public good.•

### CONGRATULATIONS AND GOOD WISHES TO MARK SMITH

• Mr. BAUCUS. Mr. President, I rise to recognize and offer my deep gratitude to legislative director, Mark Smith, who tomorrow, after 14 years of public service, will leave our office to pursue a career in the private sector.

I first became acquainted with Mark in 1983, when he joined my office as a legislative correspondent. He worked on my second campaign for the Senate as a driver and advance worker. After attending law school, he returned to my staff as a natural resources expert, and finally became legislative director in 1993. Very rarely in my life have I met someone who so embodies the

qualities of integrity, hard work, perseverance, and loyalty.

Mark's family comes from Thompson Falls in the northwest section of Montana. That part of our State is known around the world for its spectacular forests and mountains. And it is known throughout Montana for the respect its people hold for the land; for their strong ties of family and friendship; and for their old-fashioned values and work ethic.

All these have put their stamp on Mark, and Mark brings them to work every day.

He is an expert on the environment and natural resources. On these issues, Mark has always been able to find the elusive but essential balance. He has helped preserve Montana's most beautiful natural riches, while at the same time promoting and protecting the natural resource jobs that sustain so many Montana families. The preservation of Pompey's Pillar, the beauty of the Fort Peck Reservoir, and the prosperity of many Montana businesses are due in large part to Mark's appreciation of our great outdoors.

He has a respect for public service and reverence for the law that come right from the heart. Of Mark's many accomplishments here, perhaps the one that has made me proudest comes from this unique quality. That is the confirmation of two Montanans, Sid Thomas and Ron Molloy, as Federal judges. Mark helped me create a selection process that brought two of the most qualified individuals in America to the Federal bench. And that will benefit every Montanan for many years to come.

He has a rock solid work ethic and a deep respect for working men and women. Mark himself comes in to the job early and stays late. And when the Senate goes out on recess, Mark travels throughout Montana listening and learning from millworkers, farmers, small business owners, and people in every walk of life. And that has helped me more than I can say.

And finally, but perhaps most important of all, Mark is one of the most honest, loyal, and dedicated people I have ever met.

Now Mark is moving on. Everyone in our office will miss a valuable coworker, a respected adviser, and a good friend. But I and all the rest of us are very proud to have worked with Mark, and we wish him the best in the years to come.•

## TRIBUTE TO THE TOWN OF BERLIN, NH, AS IT CELEBRATES ITS CENTENNIAL ANNIVERSARY

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the people of Berlin, NH, on their city's 100th anniversary. The residents of this north country community will begin celebrating this historic occasion February 2 and continue celebrating with a number of festivities including a parade, fireworks show, and music presentation.

The tract of New Hampshire's wilderness now known as Berlin allowed the first settlers striving for independence to come across the mountains to start a new community in the isolated but spectacularly beautiful, rugged land. At that time, the area was called the Plantation of Maynesborough after a renowned English gentleman to whom it was granted by the Crown in 1771. Though this area was severe in the winter, no one had to go hungry because the woods were full of deer and partridge, and the brooks and river teemed with trout. The seemingly endless stands of timber-pine, spruce, fir, and much more scenic beauty stretched across the land.

I travel to Berlin often. It is the gateway to northern New Hampshire. I am always heartened by the sense of community spirit and the dedication to excellence in the people of this industrial town. I have worked with the members of the city government, and many residents, on issues ranging from environmental protection to job security at the plants to economic development for local business. I know the people of Berlin to possess the Yankee independence exhibited by the first settler, William Sessions. That drive, fellowship, and community spirit still holds true in the Berlin of today.

The village was incorporated on February 2, 1897, by Governor Ramsdell, under the name of Berlin. Over the next 20 years, settlers continued farming, running sawmills, and raising homes and families. By 1920, Berlin became a busy industrial center and the capital of the papermaking world with the formation of the Brown family's Berlin Mills Co. It is an industry still prevalent today.

Thomas Green opened Berlin's first retail market for business in 1835. By 1890, Berlin developed a downtown of wood framed stores, churches, and other public buildings that lined the unpaved streets and wooden boardwalks. After the turn of the century, several hotels, theaters, and even a large opera house could be found in the center of Berlin's flourishing economy. On July 24, 1902, a street railway began operating between Berlin and Gorham, and in 1920, the railway transported over 1.6 million passengers.

Many of the buildings that graced the streets of Berlin in the early 1900's still exist today and exemplify some of Berlin's extraordinary architecture. Several of the events planned for Berlin's centennial celebration will take place in these historic areas of the city. Sunday evening's formal ceremonies will be held in Berlin's city hall, completed in 1914 by A.N. and J.B. Gilbert. The city hall illustrates Gerogian revival architecture.

I regret I cannot attend the joyous festivities today, but I warmly congratulate the residents of Berlin on 100 years of history. I wish to extend my very best wishes for a festive week of activities and continued prosperity. Happy birthday Berlin.•

## RULES OF THE COMMITTEE ON SMALL BUSINESS

• Mr. BOND. Mr. President, pursuant to the Standing Rule 26, I submit the rules for the Committee on Small Business to be printed in the CONGRESSIONAL RECORD that was adopted by the committee during its business meeting on January 29, 1997.

The rules follow:

### RULES OF THE COMMITTEE ON SMALL BUSINESS

#### 1. GENERAL

All applicable provisions of the Standing Rules of the Senate and of the Legislative Reorganization Act of 1946, as amended, shall govern the Committee.

#### 2. MEETING AND QUORUMS

(a) The regular meeting day of the Committee shall be the first Wednesday of each month unless otherwise directed by the Chairman. All other meetings may be called by the Chairman as he deems necessary, on 3 days notice where practicable. If at least three Members of the Committee desire the Chairman to call a special meeting, they may file in the office of the Committee a written request therefor, addressed to the Chairman. Immediately thereafter, the Clerk of the Committee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Committee Members may file in the Office of the Committee their written notice that a special Committee meeting will be held, specifying the date, hour and place thereof, and the Committee shall meet at that time and place. Immediately upon the filing of such notice, the Clerk of the Committee shall notify all Committee Members that such special meeting will be held and inform them of its date, hour and place. If the Chairman is not present at any regular, additional or special meeting, the Ranking Majority member present shall preside.

(b)(1) A majority of the Members of the Committee shall constitute a quorum for reporting any legislative measure or nomination.

(2) One-third of the Members of the Committee shall constitute a quorum for the transaction of routine business, provided that one Minority Member is present. The term "routine business" includes, but is not limited to, the consideration of legislation pending before the Committee and any amendments thereto, and voting on such amendments. 132 Congressional Record §3231 (daily edition March 21, 1986)

(3) In hearings, whether in public or closed session a quorum for the asking of testimony, including sworn testimony, shall consist of one Member of the Committee.

(c) Proxies will be permitted in voting upon the business of the Committee by Members who are unable to be present. To be valid, proxies must be signed and assign the right to vote to one of the Members who will

be present. Proxies shall in no case be counted for establishing a quorum.

(d) It shall not be in order for the Committee to consider any amendment in the first degree proposed to any measure under consideration by the Committee unless thirty written copies of such amendment have been delivered to the office of the Committee at least 24 hours prior to the meeting. This subsection may be waived by the Chairman or by a majority vote of the members of the Committee.

3. HEARINGS

(a)(1) The Chairman of the Committee may initiate a hearing of the Committee on his authority or upon his approval of a request by any Member of the Committee. Written notice of all hearings shall be given, as far in advance as practicable, to Members of the Committee.

(2) Hearings of the Committee shall not be scheduled outside the District of Columbia unless specifically authorized by the Chairman and the Ranking Minority Member or by consent of a majority of the Committee. Such consent may be given informally, without a meeting.

(b)(1) Any Member of the Committee shall be empowered to administer the oath to any witness testifying as to fact if a quorum be present as specified in Rule 2(b).

(2) Interrogation of witnesses at hearings shall be conducted on behalf of the Committee by Members of the Committee or such Committee staff as is authorized by the Chairman or Ranking Minority Member.

(3) Witnesses appearing before the Committee shall file with the Clerk of the Committee a written statement of the prepared testimony at least 48 hours in advance of the hearing at which the witness is to appear unless this requirement is waived by the Chairman and the Ranking Minority Member.

(c) Witnesses may be subpoenaed by the Chairman with the agreement of the Ranking Minority Member or by consent of a majority of the Members of the Committee. Such consent may be given informally, without a meeting. Subpoenas shall be issued by the Chairman or by the Member of the Committee designated by him. A subpoena for the attendance of a witness shall state briefly the purpose of the hearing and the matter or matters to which the witness is expected to testify. A subpoena for the production of memoranda, documents and records shall identify the papers required to be produced with as much particularity as is practicable.

(d) Any witness summoned to a public or closed hearing may be accompanied by counsel of his own choosing, who shall be permitted while the witness is testifying to advise him of his legal rights.

(e) No confidential testimony taken, or confidential material presented to the Committee, or any report of the proceedings of a closed hearing, or confidential testimony or material submitted voluntarily or pursuant to a supoena, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee.

4. SUBCOMMITTEES

The Committee shall not have standing subcommittees.

5. AMENDMENT OF RULES

The foregoing rules may be added to, modified or amended; provided, however, that not less than a majority of the entire Membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.●

## RULES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. MURKOWSKI. Mr. President, in accordance with rule XXVI, paragraph 2, of the Standing Rules of the Senate, I hereby submit for publication in the CONGRESSIONAL RECORD, the rules of the Committee on Energy and Natural Resources.

The rules follow:

RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Rule 1. The Standing Rules of the Senate as supplemented by these rules, are adopted as the rules of the Committee and its Subcommittees.

MEETINGS OF THE COMMITTEE

Rule 2. (a) The Committee shall meet on the third Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

(b) Business meetings of any Subcommittee may be called by the Chairman of such Subcommittee, Provided, That no Subcommittee meeting or hearing other than a field hearing, shall be scheduled or held concurrently with a full Committee meeting or hearing, unless a majority of the Committee concurs in such concurrent meeting or hearing.

OPEN HEARINGS AND MEETINGS

Rule 3. (a) Hearings and business meetings of the Committee or any Subcommittee shall be open to the public except when the Committee or such Subcommittee by majority vote orders a closed hearing or meeting.

(b) A transcript shall be kept of each hearing of the Committee or any Subcommittee.

(c) A transcript shall be kept of each business meeting of the Committee or any Subcommittee unless a majority of the Committee or the Subcommittee involved agrees that some other form of permanent record is preferable.

HEARING PROCEDURE

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any Subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the Subcommittee involved determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee or the Subcommittee involved concurs. In no case shall a hearing be conducted with less than twenty-four hours notice.

(b) Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee or Subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

(c) Each member shall be limited to five minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness.

(d) The Chairman and the ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure or subject shall be included on the agenda of the next following business meeting of the full Committee or any Subcommittee if a written request for such inclusion has been filed with the Chairman of the Committee or Subcommittee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee or Subcommittee to include legislative measures or subjects on the Committee or Subcommittee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee or any Subcommittee shall be provided to each Member and made available to the public at least three days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of the Members of the Committee or Subcommittee. The Staff Director shall promptly notify absent Members of any action taken by the Committee or any Subcommittee on matters not included on the published agenda.

QUORUMS

Rule 6. (a) Except as provided in subsections (b), (c), and (d), seven Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered reported from the Committee unless eleven Members of the Committee are actually present at the time such action is taken.

(c) Except as provided in subsection (d), one-third of the Subcommittee Members shall constitute a quorum for the conduct of business of any Subcommittee.

(d) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee or any Subcommittee.

VOTING

Rule 7. (a) A rollcall of the Members shall be taken upon the request on any Member. Any Member who does not vote on any rollcall at the time the roll is called, may vote (in person or by proxy) on that rollcall at any later time during the same business meeting.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

(c) Each Committee report shall set forth the vote on the motion to report the measure or matter involved. Unless the Committee directs otherwise, the report will not set out any votes on amendments offered during Committee consideration. Any Member who did not vote on any rollcall shall have the opportunity to have his position recorded in the appropriate Committee record or Committee report.

(d) The Committee vote to report a measure to the Senate shall also authorize the staff of the Committee to make necessary technical and clerical corrections in the measure.

SUBCOMMITTEES

Rule 8. (a) The number of Members assigned to each Subcommittee and the division between Majority and Minority Members shall be fixed by the Chairman in consultation with the ranking Minority Member.

(b) Assignment of Members to Subcommittees shall, insofar as possible, reflect the preferences of the Members. No Member will receive assignment to a second Subcommittee until, in order of seniority, all Members of the Committee have chosen assignments to one Subcommittee, and no Member shall receive assignment to a third Subcommittee until, in order of seniority, all Members have chosen assignments to two Subcommittees.

(c) Any Member of the Committee may sit with any Subcommittee during its hearings and business meetings but shall not have the authority to vote on any matters before the Subcommittee unless he is a Member of such Subcommittee.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 9. Witnesses in Committee or Subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee or Subcommittee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee and at the request of any Member, any other witness shall be under oath. Every nominee shall submit a statement of his financial interests, including those of his spouse, his minor children, and other members of his immediate household, on a form approved by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. A statement of every nominee's financial interest shall be made public on a form approved by the Committee, unless the Committee in executive session determines that special circumstances require a full or partial exception to this rule. Members of the Committee are urged to make public a statement of their financial interests in the form required in the case of Presidential nominees under this rule.

CONFIDENTIAL TESTIMONY

Rule 10. No confidential testimony taken by or confidential material presented to the Committee or any Subcommittee, or any report of the proceedings of a closed Committee or Subcommittee hearing on business meeting, shall be made public, in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 11. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee or Subcommittee hearing tends to defame him or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 12. Any meeting or hearing by the Committee or any Subcommittee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AMENDING THE RULES

Rule 13. These rules may be amended only by vote of a majority of all the Members of the Committee in a business meeting of the Committee: Provided, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting.•

## RULES OF PROCEDURE OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES

• Mr. JEFFORDS. Mr. President, in accordance with Rule XXVI, paragraph 2 of the Standing Rules of the Senate, I hereby submit for publication in the RECORD the Rules of Procedure of the Committee of Labor and Human Resources.

The rules follow:

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

RULES OF PROCEDURE (AS AGREED TO JANUARY 22, 1997)

Rule 1. Subject to the provisions of rule XXVI, paragraph 5, of the Standing Rules of the Senate, regular meetings of the committee shall be held on the second and fourth Wednesday of each month, at 10:00 a.m., in room SD–430, Dirksen Senate Office Building. The chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2. The chairman of the committee or of a subcommittee, or if the chairman is not present, the ranking majority member present, shall preside at all meetings.

Rule 3. Meetings of the committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate.

Rule 4. (a) Subject to paragraph (b), one-third of the membership of the committee, actually present, shall constitute a quorum for the purpose of transacting business. Any quorum of the committee which is composed of less than a majority of the members of the committee shall include at least one member of the majority and one member of the minority.

(b) A majority of the members of a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business: provided, no measure or matter shall be ordered reported unless such majority shall include at least one member of the minority who is a member of the subcommittee. If, at any subcommittee meeting, a measure or matter cannot be ordered reported because of the absence of such a minority member, the measure or matter shall lay over for a day. If the presence of a member of the minority is not then obtained, a majority of the members of the subcommittee, actually present, may order such measure or matter reported.

(c) No measure or matter shall be ordered reported from the committee or a subcommittee unless a majority of the committee or subcommittee is actually present at the time such action is taken.

Rule 5. With the approval of the chairman of the committee or subcommittee, one member thereof may conduct public hearings other than taking sworn testimony.

Rule 6. Proxy voting shall be allowed on all measures and matters before the committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

The committee may poll any matters of committee business as a matter of unanimous consent; provided that every member is polled and every poll consists of the following two questions:

(1) Do you agree or disagree to poll the proposal; and

(2) Do you favor or oppose the proposal.

Rule 7. There shall be prepared and kept a complete transcript or electronic recording adequate to fully record the proceedings of each committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the specific provisions of subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate, unless a majority of said members vote to forgo such a record. Such records shall contain the vote cast by each member of the committee or subcommittee on any question on which a "yea and nay" vote is demanded, and shall be available for inspection by any committee member. The clerk of the committee, or the clerk's designee, shall have the responsibility to make appropriate arrangements to implement this rule.

Rule 8. The committee and each subcommittee shall undertake, consistent with the provisions of rule XXVI, paragraph 4, of the Standing Rules of the Senate, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9. The committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the chairman and the ranking minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the committee or a subcommittee. The committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10. Should a subcommittee fail to report back to the full committee on any measure within a reasonable time, the chairman may withdraw the measure from such subcommittee and report that fact to the full committee for further disposition.

Rule 11. No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12. It shall be the duty of the chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13. Whenever a meeting of the committee or subcommittee is closed pursuant to the provisions of subsection (b) or (d) of rule 26.5 of the Standing Rules of the Senate, no person other than members of the committee, members of the staff of the committee, and designated assistants to members of the committee shall be permitted to attend such closed session, except by special dispensation of the committee or subcommittee or the chairman thereof.

Rule 14. The chairman of the committee or a subcommittee shall be empowered to adjourn any meeting of the committee or a

subcommittee if a quorum is not present within fifteen minutes of the time schedule for such meeting.

Rule 15. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the committee or a subcommittee for final consideration, the clerk shall place before each member of the committee or subcommittee a print of the statute or the part or section thereof to be amended or replaced showing by stricken-through type, the part or parts to be omitted and in italics, the matter proposed to be added, if a member makes a timely request for such print.

Rule 16. An appropriate opportunity shall be given the minority to examine the proposed text of committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the majority to examine the proposed text prior to filing or publication.

Rule 17. (a) The committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the committee.

(b) For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the committee or subcommittee shall constitute a quorum: provided, with the concurrence of the chairman and ranking minority member of the committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

(c) The committee may, by a majority vote, delegate the authority to issue subpoenas to the chairman of the committee or a subcommittee, or to any member designated by such chairman. Prior to the issuance of each subpoena, the ranking minority member of the committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the chairman of the committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the committee requesting same, or to any assistant to a member of the committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the rules of the Senate. Such information, to the extent that it is relevant to the investigation shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the chairman of the committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

(d) Any witness summoned to testify at a hearing, or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(e) No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the committee or subcommittee.

Rule 18. Presidential nominees shall submit a statement of their background and financial interests, including the financial interests of their spouse and children living in their household, on a form approved by the committee which shall be sworn to as to its completeness and accuracy. The committee form shall be in two parts—

(I) information relating to employment, education and background of the nominee relating to the position to which the individual is nominated, and which is to be made public; and

(II) information relating to financial and other background of the nominee, to be made public when the committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Information relating to background and financial interests (parts I and II) shall not be required of (a) candidates for appointment and promotion in the Public Health Service Corps; and (b) nominees for less than full-time appointments to councils, commissions or boards when the committee determines that some or all of the information is not relevant to the nature of the position. Information relating to other background and financial interests (part II) shall not be required of any nominee when the committee determines that it is not relevant to the nature of the position.

Committee action on a nomination, including hearings or meetings to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the chairman, with the concurrence of the ranking minority member, waives this waiting period.

Rule 19. Subject to statutory requirements imposed on the committee with respect to procedure, the rules of the committee may be changed, modified, amended or suspended at any time; provided, not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 20. In addition to the foregoing, the proceedings of the committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

[Excerpts from the Standing Rules of the Senate]

RULE XXV

STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

* * * * *

(m)(1) Committee on Labor and Human Resources, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Measures relating to education, labor, health, and public welfare.
2. Aging.
3. Agricultural colleges.
4. Arts and humanities.
5. Biomedical research and development.
6. Child labor.
7. Convict labor and the entry of goods made by convicts into interstate commerce.
8. Domestic activities of the American National Red Cross.
9. Equal employment opportunity.
10. Gallaudet College, Howard University, and Saint Elizabeths Hospital.
11. Handicapped individuals.
12. Labor standards and labor statistics.
13. Mediation and arbitration of labor disputes.
14. Occupational safety and health, including the welfare of miners.
15. Private pension plans.
16. Public health.
17. Railway labor and retirement.
18. Regulation of foreign laborers.
19. Student loans.
20. Wages and hours of labor.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to health, education and training, and public welfare, and report thereon from time to time.

RULE XXVI

COMMITTEE PROCEDURE

1.[1] Each standing committee, including any subcommittee of any such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to take such testimony and to make such expenditures out of the contingent fund of the Senate as may be authorized by resolutions of the Senate. Each such committee may make investigations into any matter within its jurisdiction, may report such hearings as may be had by it, and may employ stenographic assistance at a cost not exceeding the amount prescribed by the Committee on Rules and Administration.[2] The expenses of the committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

* * * * *

5. (a) Notwithstanding any other provision of the rules, when the Senate is in session, no committee of the Senate or any subcommittee thereof may meet, without special leave, after the conclusion of the first two hours after the meeting of the Senate commenced and in no case after two o'clock postmeridian unless consent therefor has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leaders, from his designee). The prohibition contained in the preceding sentence shall not apply to the Committee on Appropriations or the Committee on the Budget. The majority leader or his designee shall announce to the Senate whenever consent has been given under this subparagraph and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

(b) Each meeting of a committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommitte thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to

[1] As amended. S. Res. 281, 96-2, Mar. 11, 1980 (effective Feb. 28, 1981).

[2] Pursuant to section 68c of title 2, United States Code, the Committee on Rules and Administration issues Regulations Governing Rates Payable to Commercial Reporting Firms for Reporting Committee Hearings in the Senate." Copies of the regulations currently in effect may be obtained from the Committee.

go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or other wise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance of any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

(e) Each committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting or conference whether or not such meeting or any part thereof is closed under this paragraph, unless a majority of its members vote to forgo such a record.

* * * * *

GUIDELINES OF THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES WITH RESPECT TO HEARINGS, MARKUP SESSIONS, AND RELATED MATTERS

HEARINGS

Section 133A*(a)* of the Legislative Reorganization Act requires each committee of the Senate to publicly announce the date, place, and subject matter of any hearing at least one week prior to the commencement of such hearing.

The spirit of this requirement is to assure adequate notice to the public and other Members of the Senate as to the time and subject matter of proposed hearings. In the spirit of section 133A*(a)* and in order to assure that members of the committee are themselves fully informed and involved in the development of hearings:

1. Public notice of the date, place, and subject matter of each committee or subcommittee hearing should be inserted in the Congressional Record seven days prior to the commencement of such hearing.

2. Seven days prior to public notice of each committee or subcommittee hearing, the committee or subcommittee should provide written notice to each member of the committee of the time, place, and specific subject matter of such hearing, accompanied by a list of those witnesses who have been or are proposed to be invited to appear.

3. The committee and its subcommittee should, to the maximum feasible extent, enforce the provisions of rule 9 of the committee rules as it relates to the submission of written statements of witnesses twenty-four hours in advance of a hearing. When statements are received in advance of a hearing, the committee or subcommittee (as appropriate) should distribute copies of such statements to each of its members.

EXECUTIVE SESSIONS FOR THE PURPOSE OF MARKING UP BILLS

In order to expedite the process of marking up bills and to assist each member of the committee so that there may be full and fair consideration of each bill which the committee or a subcommittee is marking up the following procedures should be followed:

1. Seven days prior to the proposed date for an executive session for the purpose of marking up bills the committee or subcommittee (as appropriate) should provide written notice to each of its members as to the time, place, and specific subject matter of such session, including an agenda listing each bill or other matters to be considered and including:

(a) two copies of each bill, joint resolution, or other legislative matter (or committee print thereof) to be considered at such executive session; and

(b) two copies of a summary of the provisions of each bill, joint resolution, or other legislative matter to be considered at such executive session; and

2. Three days prior to the scheduled date for an executive session for the purpose of marking up bills, the committee or subcommittee (as appropriate) should deliver to each of its members two copies of a Cordon print or an equivalent explanation of changes of existing law proposed to be made by each bill, joint resolution, or other legislative matter to be considered at such executive session.

3. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, each member of the committee or a subcommittee (as appropriate) should provide to all other such members two written copies of any amendment or a description of any amendment which that member proposes to offer to each bill, joint resolution, or other legislative matter to be considered at such executive session.

4. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, the committee or a subcommittee (as appropriate) should provide each member with a copy of the printed record or a summary of any hearings conducted by the committee or a subcommittee with respect to each bill, joint resolution, or other legislative matter to be considered at such executive session.

COMMITTEE REPORTS, PUBLICATIONS, AND RELATED DOCUMENTS

Rule 16 of the committee rules, requires that the minority be given an opportunity to examine the proposed text of committee reports prior to their filing and that the majority be given an opportunity to examine the proposed text of supplemental, minority, or additional views prior to their filing. The views of all members of the committee should be taken fully and fairly into account with respect to all official documents filed or published by the committee. Thus, consistent with the spirit of rule 16, the proposed text of each committee report, hearing record, and other related committee document or publication should be provided to the chairman and ranking minority member of the committee and the chairman and ranking minority member of the appropriate subcommittee at least forty-eight hours prior to its filing or publication.●

## RETIREMENTS OF ARTHUR CURRAN, DONN LARSON, AND RICHARD GIBBONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 36 presented earlier today by myself and Senator DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 36) relative to the retirements of Arthur Curran, Donn Larson, and Richard Gibbons.

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

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

Mr. LOTT. Mr. President, when the First Congress convened in 1789, one of the more pressing problems for the Senate was its inability to keep a majority of Members in the Capitol long enough to establish a quorum, organize, and begin the business of Government. In response, the Senate established the Office of Doorkeeper. As the first officer of the Senate, the Doorkeeper's primary responsibilities were to keep Senators in and, as proceedings were held in closed session for the first 6 years, keep everyone else out.

In 1795, the Senate began holding open sessions which required the opening of public galleries. And, once again, it fell to the Doorkeepers to maintain decorum and enforce the rules of the Senate.

Mr. President, as I speak here today, and every day that the Senate is in session, there are more than a score of Doorkeepers, both on the floor of the Senate and dutifully standing post in the galleries. The Senate is grateful for the dedication and service of the ranks of the members of the Office of the Doorkeeper. In particular, I want to commend the service of three individuals who have given a cumulative service of nearly 70 years to the U.S. Senate.

On behalf of the Senate I want to thank Messrs. Richard Gibbons, Arthur Curran, and Donn Larson. Regrettably, I am informed that each will retire at the end of this month.

Arthur Patrick Curran has faithfully served the U.S. Senate as a Doorkeeper for the past 21 years. Initially appointed by Vice President Nelson Rockefeller in 1975, 6 years later he was promoted to Superintendent of Doorkeepers and has served in that capacity until his retirement in January 1997. In addition to his normal post at the Senate Chamber, Mr. Curran has performed his duties in numerous high profile Senate hearings, joint sessions, and Presidential inaugurations.

Mr. Curran, a native of Washington, DC, has strong links to New England and a keen interest in politics. In fact with his tall stature, bow tie, and stately appearance, he is often confused for being a Senator. On several occasions, as visitors have left the gallery, they have congratulated him for his fine speech.

Donn Larson, Deputy Superintendent of Doorkeepers, is also retiring after many years of dedicated service to the U.S. Senate. Donn started his career with the Senate under an appointment from Senator Milton Young (R–ND) in 1959. From 1961 to 1968, he worked in the Republican Cloakroom, assisting the Secretary to the Minority.

From 1969 to 1977, Donn worked in the Federal Government. He served with the State Department Inspector General for Foreign Assistance, as well as with the Department of Health, Education and Welfare. In 1977, Donn returned to the U.S. Senate, and in 1981 assumed the position of Deputy Superintendent of Doorkeepers.

Richard Gibbons began service with the Office of Doorkeeper in the 94th Congress—1977. For a number of years, he served as the press liaison for the Doorkeeper's Office. During the 103d Congress, Richard was assigned to work solely on the Senate floor, assisting Members of the Senate.

Each of us have known these men over the years for their tireless efforts in maintaining decorum of the Chamber and galleries and assisting Members on the floor of the Senate. Countless letters of appreciation have been written by our constituents thanking these men for there kindness and courtesies.

On the occasion of their retirement from Federal service, I want to extend the very best wishes of the U.S. Senate and a grateful Nation.

Mr. DASCHLE. Mr. President, this resolution commends the service of three very important Senate staff members, members who have served this institution exceedingly well, in some cases for many years, even decades. I want to add my own commendation and congratulations to these three very distinguished members of our Senate family.

Arthur Curran has been the Superintendent of Senate Doorkeepers for a long time. He was appointed by the Vice President in 1975, at that time Vice President Rockefeller, and has served as our Superintendent of Doorkeepers since 1981.

Those duties involving his particular position are extraordinarily consequential and far-reaching. He is responsible for joint sessions of Congress. He is also responsible for high-profile Senate hearings, and all of the inaugurations, including the one just completed last week.

He is a native of Washington, DC, and spent many summers in Maine as he was growing up. But over the time that I have had the good fortune to know him, Arthur has also proved to me to be a real connoisseur of good restaurants and has given me a lot of good tips over the years as to restaurants that I should try.

But far more important than his knowledge of good restaurants in the area, Arthur Curran has an institutional knowledge and respect that will be impossible to replace.

Arthur Curran leaves tomorrow with our good wishes, with our thanks, with our profuse respect. We thank him for a job well done. We encourage him to enjoy all of his new endeavors. And we thank those members of his family who have sacrificed, along with Arthur, that he might do the kind of job that he has now for more than 20 years.

Donn Larson is the Deputy Supervisor of Doorkeepers. He, too, was appointed decades ago. He was first appointed by Senator Milton Young in 1959. He worked in the Republican Cloakroom from 1961 to 1968; and from 1969 to 1977 worked for the State Department and the Department of Health, Education, and Welfare.

He returned to the U.S. Senate in 1977, and has been the Deputy Supervisor of the Doorkeepers, also, since 1981.

Donn Larson, like Arthur Curran, knows this institution. He has watched Senators come and go. He has watched the progress of democracy and heard all of the noise of democracy each day with all of its volume. His civility, his cooperation, his extraordinary demeanor is something that we will miss, beginning on Monday.

We again congratulate and commend Donn Larson for an extraordinary contribution to his country and for a remarkable career here in the U.S. Senate.

Richard Gibbons—somebody we all know because he is right here on the floor—is a floor attendant. He began working for the Senate doorkeepers in 1977. For many years he worked as press liaison outside the President's room just off the Senate floor. And during the 103d Congress, Richard was moved out to the floor where he has helped Senators and staff and everybody else who has come through with whatever needs they might have. He has helped to keep order in the Chamber, and he has done an extraordinarily effective job.

Richard Gibbons, too, deserves our thanks and deserves the respect that he has now earned on both sides of the aisle. We commend him. We thank him. We wish him well in all of his future endeavors as well.

As I mentioned a moment ago, men and women who come to work with us in the Senate Chamber make an immense sacrifice, oftentimes in terms of the income they could acquire at jobs outside of Capitol Hill, in time spent here when they could be spending it with their families. We thank their families for the support that they have given them. We thank them for their understanding. We thank them for allowing us the opportunity and good fortune to work with them with the frequency and with the success that we have.

So on this day it is with some sadness that we note the departure of Arthur Curran, Donn Larson, and Richard Gibbons. But with great enthusiasm, we wish them well as they take on new roles and new responsibilities and certainly many more opportunities in their lives ahead.

I know this resolution will pass overwhelmingly, as it should, because Republicans and Democrats owe these three individuals a very deep sense of gratitude.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 36), with its preamble, reads as follows:

S. RES. 36

Relative to the retirements of Arthur Curran, Donn Larson and Richard Gibbons;

Whereas Arthur Curran, Donn Larson and Richard Gibbons will retire from the Senate on January 31, 1997;

Whereas Arthur Curran was appointed as a Senate doorkeeper in 1975 by Vice President Rockefeller;

Whereas Arthur Curran rose to the post of superintendent of doorkeepers and has dutifully served in that post for the last 15 years;

Whereas Donn Larson first began his Senate career under an appointment from Senator Milton Young in 1959;

Whereas Donn Larson served in the Republican cloakroom from 1961 to 1968, leaving to work in the Federal Government until his return to the Senate in 1977, where he has served as Deputy Supervisor of the doorkeepers since 1981;

Whereas Richard Gibbons has served as a Senate doorkeeper since 1977, acting as press liaison outside the President's room just off the Senate floor;

Whereas since the 103rd Congress Richard Gibbons has served in the Senate Chamber and has diligently assisted both Senators and staff alike in a myriad of tasks in addition to his role of helping to maintain order in the Chamber;

Whereas each of these three gentlemen has faithfully served the Senate and they have carried out their duties with efficiency and good nature;

Now therefore be it resolved that the Senate extends its thanks to Arthur Curran, Donn Larson, and Richard Gibbons for their many years of dedicated service and wishes them well in their future aspirations.

The secretary of the Senate shall transmit a copy of this resolution to Arthur Curran, Donn Larson, and Richard Gibbons.

## THE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 9 and 10, Senate Resolution 31 and Senate Resolution 32.

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

## PROVIDING FOR MEMBERS ON THE PART OF THE SENATE OF THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 31) providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The resolution, (S. Res. 31) was agreed to, as follows:

S. RES. 31

*Resolved*, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

JOINT COMMITTEE ON PRINTING: John Warner; Thad Cochran; Mitch McConnell; Wendell H. Ford; and Daniel K. Inouye.

JOINT COMMITTEE ON THE LIBRARY OF CONGRESS: Ted Stevens; John Warner; Thad Cochran; Daniel Patrick Moynihan; and Dianne Feinstein.

## AUTHORIZING PRINTING OF A COLLECTION OF RULES OF COMMITTEES OF THE SENATE

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 32) to authorize the printing of a collection of the rules of the committees of the Senate.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 32) was agreed to, as follows:

S. RES. 32

*Resolved*, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 600 additional copies of such document for the use of the Committee on Rules and Administration.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar: No. 4, Alan Hantman, to be Architect, all routine military nominations reported by the Armed Services Committee today, and all nominations placed on the Secretary's desk in regard to the Coast Guard.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to these nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

CONGRESS OF THE UNITED STATES

Alan M. Hantman, of New Jersey, to be Architect of the Capitol for the term of ten years.

IN THE AIR FORCE

The following-named officer for appointment to the grade of general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

*To be general*

Lt. Gen. Lloyd W. Newton, [redacted].

The following-named officers for promotion in the Regular Air Force of the United States to the grade indicated under title 10, United States Code, section 624:

*To be major general*

Brig. Gen. Maxwell C. Bailey, [redacted].
Brig. Gen. William J. Dendinger, [redacted].
Brig. Gen. Dennis G. Haines, [redacted].
Brig. Gen. Charles R. Henderson, [redacted].
Brig. Gen. Charles R. Holland, [redacted].
Brig. Gen. Silas R. Johnson, Jr., [redacted].
Brig. Gen. Thomas J. Keck, [redacted].
Brig. Gen. Rodney P. Kelly, [redacted].
Brig. Gen. Ronald E. Keys, [redacted].
Brig. Gen. David R. Love, [redacted].
Brig. Gen. Earl W. Mabry II, [redacted].
Brig. Gen. Richard C. Marr, [redacted].
Brig. Gen. William F. Moore, [redacted].
Brig. Gen. Thomas H. Neary, [redacted].
Brig. Gen. Susan L. Pamerleau, [redacted].
Brig. Gen. Andrew J. Pelak, Jr., [redacted].
Brig. Gen. Gerald F. Perryman, Jr., [redacted].
Brig. Gen. Roger R. Radcliff, [redacted].
Brig. Gen. Richard H. Roellig, [redacted].
Brig. Gen. Lansford E. Trapp, Jr., [redacted].
Brig. Gen. Thomas C. Waskow, [redacted].
Brig. Gen. Charles J. Wax, [redacted].
Brig. Gen. John L. Woodward, Jr., [redacted].
Brig. Gen. Michael K. Wyrick, [redacted].

IN THE ARMY

The following-named Army Competitive Category officer for promotion in the Regular Army of the United States to the grade of major general under the provisions of title 10, U.S.C., sections 611(a) and 624(c):

*To be major general*

Brig. Gen. Larry G. Smith, [redacted].

The following-named Army Competitive Category officer for promotion in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, U.S.C., sections 611(a) and 624(c):

*To be brigadier general*

Col. Mitchell M. Zais, [redacted].

MARINE CORPS

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. James L. Jones, [redacted].

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Martin R. Steele, [redacted].

IN THE AIR FORCE

Air Force nominations beginning Samuel R. Bakalian, Jr., and ending Jerry A. Weihe, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

IN THE ARMY

Army nominations beginning Robert J. Metz, and ending Kathleen W. Carr, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nominations beginning Owen H. Black, and ending Dale N. Woodling, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nomination of Randel D. Matney, which nomination was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nominations beginning *Ronald P. Turnicky, and ending Matthew W. Raymond, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nominations beginning John E. Rueth, and ending Douglas R. Yates, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nomination of Phillip J. Todd, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nomination of Emmanuel M. Chiaparas, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nominations beginning *Benje H. Boedeker, and ending Martha K. Lenhart,

which nominations were received by the Senate and appeared in the the Congressional Record on January 7, 1997.

Army nomination of *Rupert H. Peete, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nominations beginning 4673X, and ending *Scott A. Svabek, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Army nominations beginning Mark S. Ackerman, and ending Donna L. Wilkins, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

IN THE COAST GUARD

Coast Guard nomination of Laura H. Guth, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning Robert R. Albright II, and ending James R. Dire, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning Francis C. Buckley, and ending Allen K. Harker, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning Ronald G. Dodd, and ending Michael E. Thompson, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning Joseph F. Ahern, and ending Catherine M. Kelly, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning Roy F. Williams, and ending Joseph P. Cain, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning George A. Russell, Jr., and ending Elmo L. Alexander II, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Coast Guard nominations beginning Brian C. Conroy, and ending Karen E. Lloyd, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

IN THE MARINE CORPS

Marine Corps nomination of James W. Brown, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Marine Corps nomination of Chris J. Gunther, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Marine Corps nomination of Douglas S. Kurth, which was received by the Senate and appeared in the Congressional Record on January 7, 1997.

Marine Corps nominations beginning Randall N. Miller, and ending Gary W. Schenkel, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

IN THE NAVY

Navy nominations beginning Gary D. Bumgarner, and ending Reynoldo Resendez, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

Navy nominations beginning Marcial B. Dumlao, and ending Rebecca L. Kirk, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 1997.

NOMINATION OF ALAN HANTMAN

Mr. WARNER. Mr. President, I ask unanimous consent that the following biography of Alan M. Hantman be printed in the RECORD.

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

EXECUTIVE BIOGRAPHY OF ALAN M. HANTMAN, A.I.A., VICE PRESIDENT—FACILITIES PLANNING AND ARCHITECTURE, ROCKEFELLER CENTER MANAGEMENT CORPORATION

Alan M. Hantman has been with Rockefeller Center Management Corporation since 1986, serving as Vice President for Architecture, Planning, and Construction. In this position, he has been responsible for assuring the maintenance of Rockefeller Center's high standards as a cohesive urban complex, as a world-renowned blending of art and architecture, as both a National Historic and New York City Landmark, and as an attractive, high quality home for 65,000 tenants and 200,000 visitors who come there each day.

Mr. Hantman has played a leading role in Rockefeller Center Corporation's $300 million Capital Improvement Program, as well as in the day to day management of this 15 million square-foot "city within a city." This work includes coordination of internal architectural, engineering, and display/graphics professionals, project managers, and plan reviewers and archivists. The selection and monitoring of consulting architects, engineers, artists, preservationists, and construction contractors has also been an important part of his responsibilities. In 1995 Alan was named Vice President, Facilities Planning and Architecture and given strategic planning responsibilities for all buildings at Rockefeller Center along with continued oversight of all art, architecture, and preservation issues.

Alan came to Rockefeller Center from Cushman & Wakefield Inc.'s Development Consulting Group where he held the position of Project Director for architectural and planning projects. Responsibilities included providing consulting services for programming, planning and design for major corporate headquarters buildings, office structures and a wide variety of other commercial undertakings. Projects ranged from new construction to retrofit programs and tenant interiors. Major clients included The World Bank, Washington, DC; Dravo Corporation of Pittsburgh; Banco Mercantile of Caracus, Venezuela; and the New York State Department of Transportation at Stewart International Airport.

In his professional experience, Alan has also served as Assistant Chief Architect with the national architecture-engineering firm of Gibbs & Hill Inc., and with the internationally known architectural design firm of Ulrich Franzen & Associates. Among his clients were Mellon Bank, Equitable Life Assurance Society of America; The Royal Commission of Jubail and Yanbu, Saudi Arabia; Phillip Morris Inc.; Miller Brewing Company; Hunter College; and the New York State University Construction Fund.

Alan is a member of the American Institute of Architects, Building Owners and Managers Association, and The New York Building Congress, and has lectured on the subjects of the design and evolution of Rockefeller Center, computer assisted design, and facilities management, at various forums including Pratt School of Architecture, CCNY, and Cornell University's Masters Program in Facilities Planning and Management.

A registered architect in the states of New York and New Jersey, Alan is also certified by the National Council of Architectural Registration Boards, and holds a Masters Degree in Urban Planning. The New York Society of Architects awarded him its Sidney L. Strauss Award, "For Outstanding Achievement For the Benefit of the Architectural Profession," for his work at Rockefeller Center.

Licenses: Architect—New York and New Jersey Registrations Certification by National Council of Architectural Registration Boards.

Education: Masters in Urban Planning, 1979, Graduate Center, City University of NY; Bachelor of Architecture, 1966, College of the City of New York—CCNY; and B.S., Architecture 1965, College of the City of New York—CCNY.

Summary: Thirty years of increasingly responsible management experience covering all aspects of the building design-construction-management process. These responsibilities include: the direct control of art, architecture, preservation, and tenant occupancy considerations for Rockefeller Center, a 15 million square foot urban commercial office and retail complex; architectural consultant in the development consulting division of Cushman & Wakefield Inc., a national real estate firm; the position of Assistant Chief Architect for Gibbs & Hill Inc., a major architecture-engineering firm; multiple projects with the internationally known design firm of Ulrich Franzen & Associates.

Leadership Skills: Demonstrated ability to: communicate clearly and effectively with all organizational levels in formal and informal meetings and presentations; provide vision and oversight for strategic planning processes; direct inter-disciplinary teams of internal and consulting professionals in complex projects; select and monitor consulting architects, engineers, artists, preservationists and contractors; interface with regulatory agencies to facilitate timely project completion; develop and control budgets and schedules; work with staff to achieve job satisfaction while contributing to the accomplishment of organizational goals.

Detailed Experience 1986—Present: Rockefeller Center Management Corporation (Staff Size; approximately 1,200), Vice President Facilities Planning and Architecture Responsible for assuring the maintenance of Rockefeller Center's high standards as a cohesive urban complex, as a world renowned blending of art and architecture, and as both a National Historic and a New York City landmark. Responsible for major parts of RCMC's $300 million Capital Improvement Program, including: the restoration and reconstruction of the Rainbow Room complex; the Multi-Tenant Floor Improvement Program; the development of a master plan for roof and facade maintenance and repair; the 47th–50th Street Subway Station refurbishment; and the lobby renovation for 1270 Avenue of the Americas which won a New York State Institute of Architects Honor Award. Responsible for strategic planning for all Rockefeller Center buildings.

Specific management and oversight responsibilities include: Manage all environmental design and planning, aesthetic, and quality of environment considerations in as efficient and cost conscious manner as possible, consistent with quality standards. Recommend appropriate design programs having aesthetic and environmental implications

for Rockefeller Center; Work to develop an enhanced design consciousness within the company to maintain and promote a positive public image of a corporation sensitive to quality and preservation issues in both public and private spaces; Develop budgets, obtain appropriate approvals, and implement projects. Responsible for strategic planning for all Rockefeller Center buildings; and Assist in developing within the entire management organization an anticipatory, participative operating style to promote job satisfaction and opportunities for advancement while achieving overall institutional goals.

Specific Rockefeller Center projects include: Restoration and reconstruction of the world famous Rainbow Room Complex ($25 million). This project won many awards for its design sensitivity and successful restoration work; Multi-Tenant Floor Improvement Program ($41 million); Master plan for roof and facade maintenance and repair (To Date: roofs—$19 million; facades—$14 million); 47th–50th Street Subway Station refurbishment ($3 million); Lobby Renovation for 1270 Avenue of the Americas ($2.5 million): This project won a New York State Institute of Architects Honor Award and includes newly commissioned artwork; Sidewalk reconstruction ($6 million); Lobby renovation for 1230 Avenue of the Americas ($1.8 million including newly commissioned artwork); All architectural input for new central plant, global control room, security center, etc. ($90 million plus); and Artwork restoration throughout Rockefeller Center ranging from stone bas reliefs, to three 18 ft. diameter mixed metal art deco medallions on the exterior of Radio City Music Hall ($1 million).

1983–1986—Cushman & Wakefield, Inc. (Staff Size: approximately 600); Architectural Development Consultant, and Responsible for developing corporate and institutional housing strategies, including considerations of image, growth and functional needs, and building retrofit potential. Responsible for integrating these needs with relevant brokerage, building, operations, financial analysis, and appraisal considerations to develop comprehensive housing recommendations to major clients. Implementation of these studies through the coordination of architectural, engineering and construction consultants on behalf of corporate, private and governmental clients throughout the process.

Specific Cushman & Wakefield projects and clients include: The World Bank, Washington D.C.: $25 M "J" Building at 18th and Pennsylvania Avenue, plus Master Plan studies for main World Bank complex: Banco Mercantil, Caracas, Venezuela: Study for square block commercial development; and New York State Department of Transportation, Stewart International Airport: Study for development of 9500 acre site.

1973–1983—Gibbs & Hill, Inc. (Staff Size: approximately 3,000) Assistant Chief Architect; Assistant Chief Architect for a large architectural-engineering firm with an architectural departmental staff of architects, interior designers, facilities managers, and graphic designers. In-depth involvement in all aspects of the day to day functioning of the department, including staffing, assignments production, procedures and standards, planning, scheduling and cost control. Specific experience included:

Planning, Scheduling, and Cost Control responsibilities for Architecture Departmental staff as well as major projects for which the department was responsible. Prepared RFP's of all sizes and formulated contracts for projects, consultants, and joint venture architects and interior designers.

Project Architect for the design and implementation of a phased master plan for a $2 billion half-mile square power-desalination complex for Yanbu, a new city in Saudi Arabia. Responsible for all phases from master planning through the development of detailed design and construction documents for 25 buildings: prestige office, central control and training facilities, quality industrial, maintenance, and warehouse structures.

Design Control on projects including: Master Plan and architectural design implementation of Yanbu power-desalination complex ($2 billion); architectural design of Simulator Training Center in Taiwan ($2 million); interior design for 400,000 SF of commercial office space at Gibbs & Hill's New York headquarters as well as regional facilities ($5 million); interior design for 100,000 SF of headquarters office space for real estate division of Equitable Life Assurance Society of America, Atlanta, GA ($8 million).

Facilities Management responsibilities for Gibbs & Hill's headquarters and regional office space including: program evaluation, individual work station design, preparation of budgets, construction drawings and specifications, field supervision, and the design, purchasing and installation of all furniture, furnishings and equipment.

Strategic and In-depth Corporate Growth Programming: Conducted in-depth interviews with a wide variety of clients, from CEOs to line managers of major corporations and financial institutions. Established long range, functional and basic programmatic needs for new building projects, renovations, and facilities management responsibilities. Clients include: Mellon Bank, N.A., Pittsburgh, PA; Equitable Life Assurance Society of America, Atlanta, GA; Dravo Corporation, Pittsburgh, PA; United National Bank & Trust Co., Canton, Ohio (30,000 SF study).

Computer Graphics research and development: Responsible for coordination of team effort to produce a user-friendly computer graphics system utilizing intelligent drawings for the production of Architecture, Interior Design and Facilities Management reports. Reports are produced interactively through a mainframe environment between graphic and alpha-numeric input terminals. Capabilities of this system include FF&E reports for vendor ordering, departmental and personnel location and space utilization reports, telephone directories, etc.

1968–1973—Ulrich Franzen & Associates (Staff Size: approximately 45) Project Manager; Responsibilities included: master planning and construction documents for the Faculty of Arts & Letters and Cultural Center, at the new 30,000 student State University of New York at Buffalo, Amherst (full design and construction documents for $6.5 million English and Modern Languages Building, schematic design for Music and Chamber Hall Buildings, and planning for Theaters and Art and Architecture Departments); planning and scheduling for major Hunter College urban expansion, New York City ($50 million); construction documents for Bronx State School for Mentally Retarded ($22 million); master planning for downtown redevelopment of Ossining, New York and a new 100 acre Miller Brewing Company plant and Visitor Center.

1968—Schofield & Colgan, Architects (Staff Size: approximately 25) Architectural Detailer; Responsibilities included: construction drawings for suburban corporate headquarters for Union Camp Corporation, Wayne NJ ($8 million).

1966–1967—Lathrop Douglas, Architects (Staff Size: approximately 40) Architectural Detailer; Responsibilities included: construction drawings for the Fashion Center, Paramus, NJ; Tyson's Corners Shopping Center, Fairfax County, VA; Menlo Park Shopping Center, Menlo Park, NJ.

Memberships and Awards: American Institute of Architects, Building Owners and Managers Association, The New York Building Congress, National Trust for Historic Preservation, The New York Society of Architects Sidney L. Strauss Award "For Outstanding Achievement for the Benefit of the Architectural Profession," for work at Rockefeller Center.

Lectures: Pratt School of Architecture, College of the City of New York School of Architecture, Cornell University Master's Program in Facilities Planning & Management.

Mr. LAUTENBERG. Mr. President, I rise today in support of Alan Hantman of New Jersey, who will soon become the next Architect of the Capitol.

Mr. President, Mr. Hantman is eminently qualified for this position, and has a long and successful track record. Most recently, he served as vice president of facilities planning and architecture at Rockefeller Center from 1986 until mid-July of last year.

As Architect of the Capitol, Mr. Hantman will be responsible for the maintenance of a large and varied Capitol complex. I know he will do an outstanding job. Over the past 30 years, he has earned the respect of many in his profession, who know him to be a man of great competence and leadership.

Mr. President, the Capitol is a very special place, not only for those of us fortunate enough to work here, but for all Americans. Indeed, the image of our Capitol dome is a symbol of freedom and liberty throughout our world.

We are fortunate that this special symbol, and the great complex of which it is a part, will be in the hands of someone as competent as Alan Hantman. I wish him all the best in his new position.

Ms. MIKULSKI. Mr. President, I rise today in support of the nomination of Alan Hantman to be the next Architect of the Capitol.

Mr. Hantman's nomination is the culmination of a long and thorough search process conducted by the bipartisan Architect of the Capitol Search Commission.

He has a distinguished record, having served as vice president for architecture, planning, and construction at the Rockefeller Center. I believe he is in an excellent position to lead the Architect of the Capitol into the 21st century.

The U.S. Capitol is a unique historical institution. The new Architect will face many challenges in leading the work force of 2,100 employees. The new Architect will have to work on not only preserving the historical integrity of the Capitol, but also of managing the work force, which is comprised of dedicated and hard-working men and women many of whom I am proud to say are Maryland residents. They are being required to do more work with less help.

I have had a particular interest in the Architect's employment practices and how the workers are being treated, most of whom are blue-collar, minority workers. My concern dates back many years to the tenure of George White. Many of the workers under then-Architect White came to me, as a last resort, to complain about the rampant discrimination that was prevalent within the Architect's office.

For instance, one worker with 30 years of service had never received a raise until I intervened. This was a clear case of discrimination. And, there were many others.

I asked the General Accounting Office in 1992 to investigate the management practices of the Architect's office. The GAO found that the Architect's office did not have a modern personnel management system in place.

As a result of the GAO report, I introduced legislation to establish a professional management system, the Architect of the Capitol Human Resources Act, which was passed into law in 1994. I also called for the resignation of George White, who failed to hold the managers and superintendents within the Architect's office accountable for poor management practices.

My legislation made extensive changes to the personnel system in the Architect's office. It established merit-based hiring and promotions, an equal employment opportunity program, equal pay for equal work, a training program, job evaluations, an open and fair disciplinary process, a confidential employee assistance program, and an employee personnel manual.

Some of the law's requirements have been slowly implemented. I think it should be the No. 1 priority of the new Architect to fully implement and enforce the law's requirements. I believe it is important for the workers to know that their workplace will be free of discrimination. It is no more than what we require for all businesses.

I hope Mr. Hantman will function not only as an Architect, but as a social architect in running the Architect of the Capitol. I have tremendous hope that we will see change in the Architect's office. It is long overdue.

I want to maintain the current work force. I do not want to see the next Architect rush to privatize services. It is important that we establish an independent task force to review the impact of privatization on employees, security, and cost-savings. I am confident that Mr. Hantman Architect will be willing to listen to these concerns.

I believe the confirmation of the next Architect could mark the beginning of a new and progressive era for the Architect of the Capitol and its employees.

I am prepared to work closely with Mr. Hantman to ensure that the reforms suggested by the GAO report and outlined in my law will take place.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

## THE RETIREMENT OF WILLIAM L. ENSIGN, ACTING ARCHITECT OF THE CAPITOL

Mr. WARNER. Mr. President, William L. Ensign, Acting Architect of the Capitol, is retiring on February 3, 1997, after 20 years of Federal service. Bill began his distinguished career with the Office of the Architect of the Capitol as the Assistant Architect in May 1980. He occupied this position until November 22, 1995, when, upon the retirement of George M. White, he became the Acting Architect of the Capitol.

Bill, in his role as Assistant Architect, was also the Director of Architecture and the principal adviser to the Architect in all matters concerning the architectural design of new buildings, the restoration and renovation of existing buildings, and the planning and adaptive reuse of facilities throughout the Capitol Hill complex of buildings. Specifically, Bill was responsible for the Architecture and Construction Divisions encompassing design, construction, and production technology.

In November 1995, Bill inherited the leadership of the office. In this capacity he has been responsible to the Congress for all design, construction, care, operations, and maintenance of facilities within the Capitol Hill complex of buildings.

Prior to service with this Office, Bill was president and chief executive officer of the firm McLeod, Ferrara, Ensign Chartered Architects, from 1955 to 1980. He also served as an officer in the Civil Engineer Corps of the U.S. Navy from 1952 to 1955.

Mr. President, on the occasion of his retirement, I am honored to express and extend my gratitude and appreciation to William L. Ensign, for his many years of dedication and professionalism to the Congress and the Nation. Bill's commitment and expertise has assured that future generations will be able to visit the buildings and grounds and enjoy the rich history that is encompassed in the Capitol complex.

Mr. President, I thank Bill for his distinguished service and wish him and his family the very best during his retirement years.

## AUTHORITY FOR COMMITTEES TO REPORT

Mr. LOTT. Mr. President, I ask unanimous consent that on Monday, February 3, committees have from the hours of 12 p.m. to 7 p.m. to file legislative or executive matters.

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

## ORDERS FOR MONDAY, FEBRUARY 3, 1997, AND TUESDAY, FEBRUARY 4, 1997

Mr. LOTT. 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 Monday, February 3, for a pro forma session only. I further ask unanimous consent that immediately following the pro forma session on Monday, the Senate stand in adjournment until the hour of 11 a.m. on Tuesday, February 4; that on Tuesday, following the prayer, the routine requests through the morning hour be granted; further, that there then be a period for morning business until 12:30 p.m., with Senators permitted to speak for up to 10 minutes each.

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

Mr. LOTT. Mr. President, I ask unanimous consent that on Tuesday, the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly policy conferences to meet as usual.

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

## PROGRAM

Mr. LOTT. Mr. President, for all Senators' information, the Senate will not be in session on Friday. There will be a pro forma session on Monday, which we just pointed out, at 9:30, with no business to be conducted. The Senate will be in session on Tuesday, and it is possible that following the weekly policy luncheons on Tuesday, the Senate may consider additional nominations that will come available. There are some that are moving and, hopefully, have been reported, and maybe will be ready by Tuesday. So Senators should expect the possibility of rollcall votes on Tuesday during the session. Members will be notified of the specific times we will have those votes scheduled.

Under a previous consent, the Judiciary Committee will be able to file a report accompanying the balanced budget amendment on Monday. It is my hope we will then be able to begin consideration on that important constitutional amendment sometime during Wednesday's session of the Senate.

I also would like to remind my colleagues that the President's State of the Union Address is scheduled at 9 p.m. on Tuesday evening. All Senators are asked to be in the Senate Chamber at 8:30 p.m. on Tuesday so the Senate can proceed at 8:40 p.m. to the House of Representatives for the address.

Mr. President, we do hope that we will have one or two Cabinet nominations ready next week. Again, it depends on whether or not they are reported by the committees and we get them filed and agree on a time, which all Senators agree to, and have a vote. It looks likes it will not occur before Wednesday or Thursday. We cannot

make that announcement at this time. We will continue to work on that next week.

## ADJOURNMENT UNTIL MONDAY, FEBRUARY 3, 1997, AT 9:30 A.M.

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:28 p.m., adjourned until Monday, February 3, 1997, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate January 30, 1997:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

RICHARD J. TARPLIN, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE JERRY D. KLEPNER, RESIGNED.

DEPARTMENT OF STATE

STANLEY A. RIVELES, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U.S. COMMISSIONER TO THE STANDING CONSULTATIVE COMMISSION.

NATIONAL TRANSPORTATION SAFETY BOARD

GEORGE W. BLACK, JR., OF GEORGIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2001. (REAPPOINTMENT)

FARM CREDIT ADMINISTRATION

ANN JORGENSON, OF IOWA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION FOR A TERM EXPIRING MAY 21, 2002, GARY C. BYRNE, RESIGNED.

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

*To be medical director*

DAN L. LONGO

*To be senior surgeon*

MICHAEL A. FRIEDMAN
JEFFREY R. HARRIS
DOUGLAS B. KAMEROW
HENRY C. LANE

*To be surgeon*

ENRIQUE S. FERNANDEZ
DENNIS M. KLINMAN
DANIEL G. SCHULTZ
DAVID L. SWERDLOW

*To be senior assistant surgeon*

ALICE Y. BOUDREAU
JOANNA BUFFINGTON
ERLINDA R. CASUGA-MARQUEZ
A. RUSSELL GERBER
DOUGLAS W. KINGMA
DENISE T. KOO
ERIC D. MINTZ
MARK J. PAPANIA
DAVID H. SNIADACK
JUDITH THIERRY
JOHN C. WATSON
JANE R. ZUCKER

*To be dental surgeon*

ROSEMARY E. DUFFY

*To be senior assistant dental surgeon*

DAVID L. BRIZZEE
JEFFREY M. CAROLLA
MICHAEL E. KORALE
JANNA CHERYL MCINTOSH
REBECCA V. NESLUND
WILLIAM J. PEREZ
LINDA C. TORRES
JOHN T. ZIMMER

*To be senior assistant nurse officer*

JOYCE A. ANDERSON
VICTORIA L. ANDERSON
JUDITH E. ARNDT
LORI E. BEALLE
ERICA M. BOARDMAN
JEFFREY N. BURNHAM
LAURA M. CHISHOLM
MARIA L. DINGER
CINDY E. HAMLIN
DENNIS R. HAMMOND
ROLDIE C. JONES
CHRISTINE M. PARMENTIER
DANIEL REYNA
CLIFFORNIA J. ROLLE
MARY F. ROSSI-COAJOU
LESLIE L. ROYALL
ROSEMARY J. SULLIVAN
JAMES S. WHITING
CHRISTINE L. WILLIAMS
TONY M. ZORZYNSKI

*To be assistant nurse officer*

DANIEL J. ARONSON
ROBERT C. FRICKEY

*To be senior assistant engineer officer*

RAYMOND M. BEHEL II
DAVID M. BIRNEY
ERIC L. CRUMP
GARY S. EARNEST
MICHAEL G. GRESSEL
WILLIAM R. GRIFFITH
MICHAEL J. KOEHMSTEDT
LOUIS A. LIGHTNER, JR.
ROBERT B. MCVICKER
JACQUELINE M. PARKER
STEVEN E. RAYNOR
PAUL G. ROBINSON
GEORGE W. STYER
DANIEL C. TOMPKINS
DENNIS J. WAGNER
MAURICE C. WEST

*To be assistant engineer officer*

ANTHONY G. KATHOL

*To be scientist*

DONALD H. BURR

*To be senior assistant scientist*

DINA BIRMAN
FRANK P. GONZALES
BRUCE H. GRANT
NEAL R. MCMANN

*To be sanitarian*

BRENDA J. HOLMAN

*To be senior assistant sanitarian*

GARY J. GEFROH
KEVIN W. HANLEY
MICHAEL P. KEIFFER
GEOFFREY G. LANGER
JOHN P. LEFFEL
REVA J. MELTON
EDWARD PEREZ, JR.
FREDERICK A. RAMSEY
DORIS RAVENELL-BROWN
MICHAEL M. WELCH

*To be veterinary officer*

LINDA R. TOLLEFSON

*To be senior assistant veterinary officer*

TRACEY C. BOURKE
STEPHANIE I. HARRIS

*To be senior assistant pharmacist*

MICHAEL R. ALLEN
MARIA T. BURT
ROBERT B. CARLILE IV
JOHN M. COLEMAN
L. JANE DUNCAN
TRACI C. GALE
JILL G. GEOGHEGAN
KAREN G. HIRSHFIELD
ILENE R. KETTER
DAVID V. LARSON
KEITH E. ROST
LINDA M. SCHRAND
KASSANDRA C. SHERROD
THOMAS A. STICHT
JULIE E. WARREN

*To be assistant pharmacist*

DANA L. HALL
EDDIE J. WINN

*To be senior assistant dietitian*

YOUNG S. SONG
CONNIE Y. TORRENCE-THOMAS
JULI M. WHITSON

*To be senior assistant therapist*

BART E. DRINKARD

*To be senior assistant health services officer*

BRADLEY L. AUSTIN
TONI A. BLEDSOE
FRANK H. CROSS, JR.
WILLARD E. DAUSE
JAN DAVIS
MAUREEN E. GORMLEY
STEVE GURSKI III
R. ANDREW HUNT
WINSTON L. MOOREHEAD
JUDITH A. NELSON
GAY E. NORD
KENNETH B. STEWART

*To be assistant health services officer*

LOU A. RECTOR
CHRISTOPHER R. WALSH

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

*To be medical director*

LARRY J. ANDERSON
JOHN S. ANDREWS, JR.
KENNETH W. BERNARD
RICHARD O. CANNON
ROBERT H. CARLSON
JOSE F. CORDERO
JAIME M. DIAZ-HERNANDEZ
STEPHEN W. HEATH
DAVID G. HOOPER
VAN S. HUBBARD
T. STEPHEN JONES
DOUGLAS N. KLAUCKE
JEFFREY A. LYBARGER
MARK W. OBERLE
STEPHEN B. PERMISON
JEFFREY J. SACKS
JAMES H. SHELHAMER
DOROTHY D. SOGN
EDWARD TABOR
MICHAEL H. TRUJILLO

*To be senior surgeon*

ROBERT F. ANDA
RICHARD T. CALDWELL
JEFFREY A. CUTLER
RUTH A. ETZEL
JOHN T. FRIEDRICH
GEORGE E. GRANING
JOEL R. GREENSPAN
EVAN C. HADLEY
SCOTT D. HOLMBERG
MICHAEL J. HORAN
MARK A. KANE
JONATHAN E. KAPLAN
NORRIS S. LEWIS
DOROTHY K. MACFARLANE
NEIL J. MAKELA
RICHARD A. MARTIN
THOMAS R. NAVIN
EDWARD L. PETSONK
FRANK O. RICHARDS, JR.
CYNTHIA D. SCHRAER
MARY K. SERDULA
PHILLIP L. SMITH
HUGH K. TYSON
RONALD J. WALDMAN
ALLEN J. WILCOX
RAY YIP

*To be surgeon*

LYNN A. BOSCO
RALPH T. BRYAN
WILLIAM A. CALDER IV
RICHARD J. CALVERT
WILLIAM E. CARTER, JR.
PHILIP E. COYNE, JR.
ANDREW M. FRIEDE
TERENCE H. HAMEL
GEORGE H. HAYS, JR.
BRADLEY S. HERSH
JOHN R. LIVENGOOD
ADELINA D. MARINBERG
DIANE A. MITCHELL
JOHN S. MORAN
NEIL J. MURPHY
MARK G. PETERSON
MICHAEL PRATT
SAM S. SHEKAR

*To be dental director*

HAROLD A. BLACK
THOMAS J. DECARO
ROBERT S. ENDERS
JAMES W. FARRINGTON
DOUGLAS B. FRITZ
LAWRENCE J. FURMAN
ROBERT H. HARRY, JR.
JAMES A. LIPTON
DONALD W. MARIANOS
ROBERT A. PALMER
STEVEN H. POSNER
ALAN L. SANDLER

*To be senior dental surgeon*

VICTOR R. ALOS
CHARLES H. DETJEN
ALAN R. DEUBNER
M. ANN DRUM
ROBERT F. FELKER, JR.
JAMES D. FRIDAY
MICHAEL H. HESS
RICHARD T. HIGHAM
BENJAMIN F. HOWARD
JAMES J. JAN
MARK KODAY
MICHAEL L. MARK
GENE J. MCELHINNEY
STEVEN R. NEWMAN
FORREST H. PEEBLES
GARRY E. PITTS
MIGUEL RICO
BARRY H. WATERMAN
RICHARD H. WHITE
RUSSELL C. WILLIAMS, JR.
RODNEY WONG
DAVID K. WRIGHT
STEPHEN W. WYATT

*To be dental surgeon*

JEROME B. ALFORD
STEVEN J. BAUNE
ROBIN S. BERRIN
SAMUEL L. BUNDRANT
BILLY D. CARD, JR.
JAMES E. CODE
MARKUS P. ELDRED
MICHAEL A. FOSTER
KEVIN S. HARDWICK
MARK S. JACOBSON
THOMAS E. JORDAN
JAN T. JOSEPHSON
MARGARET L. LAMY
TAD R. MABRY
MARILYN R. MCKEAN
HOWARD W. PAYNE, JR.
PETER M. PRESTON
SANDRA L. SHIRE
ADELE M. TAYLOR
JOHN B. VEASLEY
CLIFFORD D. WHITE
PAUL YOUNG

*To be nurse director*

JANET M. DUMONT
MAY B. GIVAN
LORRAINE A. MACIAG
LYNN E. MCCOURT

*To be senior nurse officer*

MELISSA M. ADAMS
BRUCE C. BAGGETT
MARTINA P. CALLAGHAN
MARTHA J. COURY
ROBERTA A. HOLDER-MOSLEY
CHARLES R. MAUCH
NANCY E. MILLER-KORTH
CONSTANCE J. OVERBY
MARILYN K. PIERCE-BULGER
CRISTIN O. RODRIGUEZ
CAROL A. ROMANO
MYRA J. TUCKER
GALE G. WHITE
BEVERLY R. WRIGHT
SARAH C. ZAHNISER

*To be nurse officer*

ROBIN E. ANDERSON
ANA M. BALINGIT-CLARK
DORIS L. CLARKE
JAMES E. CLEVENGER
REGENA N. DALE
JOANNE DERDAK
FERN S. DETSOI
THOMAS J. EDWARDS
DANNY J. ENGLISH
MAUREEN Q. FARLEY
PAMELA R. GALLAGHER-NAVARRO
CLARICE GEE
ALAN D. GOLDSTEIN
MARTHA L. HAYNES
MARK W. HUNT
MERRIT C. JENSEN
DONNA M. KENISON
DAVID L. KERSCHNER
KATHLEEN M. KINSEY
MARK P. LECAPITAINE
LYNN M. LOWRY
JUDITH E. MAEDA
KENDA J. MATHEWS
TIMOTHY E. MATHEWS
SHERYL L. MEYERS
MICHAEL G. MIKULAN
ROGER A. MONSON
SUSAN J. MORRIS
ERNESTINE MURRAY
ROBINSON J. MYERS
BARBARA J. MYRICK
REBECCA K. OLIN
MARIA C. PADILLA
GLADYS V. PERKINS
JAMES M. POBRISLO
CHRISTINE L. RUBADUE
BEVERLY J. SANDERS
LESLIE A. SPOUSTA, JR.
TIMOTHY R. STOCKDALE
LAUREN C. TANCONA
DIANE R. WALSH
MARK S. WESSEL
JANET L. WILDEBOOR

*To be engineer director*

BRUCE P. ALMICH
DONALD B. BAD MOCCASIN
SAMUEL C. BRADSHAW
ALVIN CHUN
HERBERT W. DORSEY
MARIUS J. GEDGAUDAS
ALAN J. HOFFMAN
THOMAS T. KARIYA, JR.
STEPHEN B. LEIGHTON
WILLIAM H. MIDGETTE
DENNIS M. OBRIEN
RICHARD J. WAXWEILER
WAYNE E. WRUBLE

*To be senior engineer officer*

GERALD V. BABIGIAN
CURTIS C. BOSSERT
JOSEPH C. COCALIS
JOHN T. COLLINS
ALWIN L. DIEFFENBACH
JOHN R. GIEDT
ROBERT M. HAYES
WILLIAM A. HEITBRINK
GARY A. MCFARLAND
RICHARD D. MELTON
ELLIOT A. SHEFRIN
MICHAEL VERSCHELDEN
RANDY N. WILLARD
BRYAN K. H. YIM

*To be engineer officer*

RANDALL L. BACHMAN
JOSE F. CUZME
KENNITH O. GREEN
VALERIE J. HANEY
DANIEL L. HEINTZMAN
KENNETH F. MARTINEZ
RONALD L. MICKELSEN
DUGLAS C. OTT
GEORGE D. PRINGLE, JR.
ROGER G. SLAPE
KELLY R. TITENSOR
ROBERT L. WILSON

*To be scientist director*

CHARLES K. BOWLES
WILBUR H. CYR
ROBERT B. DICK
GEORGE C. JAN
ROBERT P. KLEIN
KENNETH KRELL
JOSEPH M. MADDEN
EVE K. MOSCICKI
ANNETTE W. ZIMMERN

*To be senior scientist*

RAYMOND F. BEACH, JR.
GREGORY M. CHRISTENSON
RAQUEL A. CRIDER
WILLIAM T. DILL
WILLIAM A. KACHADORIAN
ALAN C. SCHROEDER
CHUNG-YUI B. TAI
RICHARD W. TRUMAN

*To be scientist*

JOHN E. ABRAHAM
LESLIE P. BOSS
JOHN A. ELLIOTT
G. SHAY FOUT
SARA DEE MCARTHUR
ROGER R. ROSA
MILDRED M. WILLIAMS-JOHNSON

*To be sanitarian director*

RICHARD M. BRYAN
DOUGLAS R. JACKSON
RALPH J. TOUCH, JR.

*To be senior sanitarian*

LARRY E. GLAZE
RANDY E. GRINNELL
JOHN J. HANLEY
RICHARD W. HARTLE
GREGORY M. HECK
GARY P. NOONAN
JOHN A. STEWARD

*To be sanitarian*

BYRON P. BAILEY
WILLIAM D. COMPTON
RALPH F. FULGHAM
BARRY S. HARTFIELD
ROBERT F. HENNES
JOSEPH L. HUGHART
MARK H. MATTSON
JOHN P. SARISKY
JEFFREY J. SMITH
KEVIN TONAT
L.J. DAVID WALLACE III
PAUL T. YOUNG

*To be veterinary director*

MICHAEL J. BLACKWELL

*To be senior veterinary officer*

MARGUERITE PAPPAIOANOU

*To be veterinary officer*

PETER B. BLOLAND

*To be pharmacist director*

DAVID BARASH
JOHN A. BOREN
RICHARD E. DAVIS
JIMMY P. DOWDY
GARY A. ERICKSON
STEVEN C. GARRETT
J. CRAIG HOSTETLER
JAMES E. KNOBEN
JAY D. MCGATH
STEVEN R. MOORE
JAMES C. MYERS
ROBERT W. PARRISH
STEVEN L. PETTITT
WILLIAM B. WELCH
PATRICIA T. L. YEE-SPENCER

*To be senior pharmacist*

RUSSELL E. ALGER
THOMAS L. BLUMENBERG
ROBERT W. BOYCE
ANTHONY J. BROOKS
SUSAN CARL
ANTHONY W. DECICCO
PAUL N. DERAMO
ROGER D. EASTEP
ROGER A. GOETSCH
ARDEN H. HANSON
PAUL L. HEPP
WILLIAM A. HESS
FRANCIS J. HUSSION
MICHAEL F. JOHNSTON
RALPH B. LILLIE
JAMES A. MAY
JON A. MCARTHUR
THOMAS J. MCGINNIS
ROBERT C. NELSON
NICHOLAS P. PROVOST
GROVER H. RIVENBARK
LINDA J. SHULL
R. DAVID SIMPTON
RONNIE D. THOMAS
WILLIAM P. TYLER, JR.
PETER L. VACCARI
ROBERT L. WEST
STEPHEN W. WICKIZER

*To be pharmacist*

DIANE CENTENO-DESHIELDS
PAUL A. DAVID
JOSEPHINE E. DIVEL
STEVEN C. DOANE
MARY B. FORBES
ERIC D. GREGORY
MARTIN JAGERS
DANNY C. JONES
JAMES C. JORDAN
MICHAEL R. LILLA
ROBERT A. MCGOUGH
JAMES W. MITCHELL
MICHAEL J. MONTELLO
CECILIA-MARINA PRELA
ROBERT W. RIST
RENEE J. RONCONE
WILLIAM D. SAGE
THOMAS J. TROSHYNSKI

*To be dietitian director*

BEVERLY G. CRAWFORD

*To be senior dietitian*

SHIRLEY R. BLAKELY
SANDRA D. ROBINSON

*To be dietitian*

DIANE M. PRINCE
PAULETTE D. WICKS

*To be therapist director*

MICHAEL R. HUYLEBROECK

*To be senior therapist*

CHARLES L. MCGARVEY
MARIE A. SCHROEDER

*To be therapist*

TERRY T. CAVANAUGH
FRANKLIN D. KEEL
SHERRY L. PHILLIPS
BONNIE C. THORNTON

*To be health services director*

EVAN R. ARRINDELL
MARTIN J. BREE
ROBERT N. BURNS
WILLIAM M. CHAPIN, JR.
JAMES E. CLAIR
LARRY D. EDMONDS
JERRY G. GENTRY
ROBERT P. KUHLTHAU
MICHAEL A. LOPATIN
JOHN L. MCCROHAN, JR.
EMMETT E. NOLL
MARGARET T. ROPER
HARRY A. ROSENZWEIG
EDWIN L. SENSINTAFFAR
ROBERT SOLIZ
STUART M. SWAYZE
DAWN G. THARR

*To be senior health services officer*

MARY P. ANDERSON
KENNETH R. BAHM
STEPHEN J. BALCERZAK
ROGER W. BROSEUS
STEPHANIE D. BRYN
THOMAS F. CARRATO
VIVIAN T. CHEN
ROBERT L. DAVIDSON
CAROL A. DELANY
NORMAN E. DODDS
JEAN D. DOONG
JOHN D. DUPRE
ALAN S. FRIEDLOB
JOHN D. GALLICCHIO
DONALD W. GANN
JOHN M. GARBER
JESSE L. GLIDEWELL
TERENCE M. GRADY
RICHARD P. HASKINS
GLORIA J. HOLDER
ELLEN M. HUTCHINS
DEBRA Y. LEWIS
HECTOR LOPEZ
GEORGE G. MARTIN
JAMES D. MCGLOTHIN
CAROL REST-MINCBERG
S. JAY SMITH
FRANCIS P. WAGNER, JR.

*To be health services officer*

EUGENIA ADAMS
DUANE R. BECKWITH
FRANCIS J. BEHAN
ANNIE L. BRAYBOY-FAIR
ROBERT G. HAMMERNIK
TERESA C. HORAN
NINA R. LALICH
W. HENRY MACPHERSON
ROBERT J. SLAYTON
RACHEL E. SOLOMON
MARIA E. STETTER
NANCY A. TOLLISON
JOHN N. ZEY

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY AND FOR REGULAR APPOINTMENT IN THE JUDGE ADVOCATE GENERAL'S CORPS (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, UNITED STATES CODE SECTIONS 624, 531 AND 3283:

JUDGE ADVOCATE GENERAL'S CORPS

*To be major*

*IDA F. AGAMY, X...
*MARIAN AMREIN, X...
*BRETT E. BACON, X...
HAL D. BAIRD, X...
*MICHAEL P. BOEHMAN, X...
*KEVIN M. BOYLE, X...
*COREY L. BRADLEY, X...
*GARY R. BROCK, X...
*WADE L. BROWN, X...
*DAVID C. CALDWELL, X...
*VIRGINIA C. CARLTON, X...
KEVIN M. CIEPLY, X...
*ROBERT W. CLARK, X...
*TIMOTHY J. CODY, X...
*MELINDA A. COMFORT, X...
*SILAS R. DEROMA, X...
*HARVEY W. DEVONE, X...
*WALTER R. DUKES, X...
*BRENDA DURHAM, X...
*JAMIE D. EAKER, X...
*JOSEPH C. FETTERMAN, X...
JAMES P. FLOWERS, X...
*JAMES W. FRIEND, X...
*BRIAN J. GODARD, X...
VICTOR M. HANSEN, X...
*JOHN M. HEAD, X...
*ROBERT S. HRVOJ, X...
*JACQUELINE J. JACKSON, X...
*ROBB W. JEFFERSON, X...
*ANTHONY D. JONES, X...
*JOHN B. JONES, JR. X...
*PAUL E. KANTWQILL, X...
*BENJAMIN T. KASH, X...
*DANIEL W. KELLY III, X...
*THOMAS M. KULISH, X...
*PAUL L. LEE, X...
*CLAES H. LEWENHAUPT, X...
*DAVID M. LOWE, X...
*PATRICIA A. MARTINDALE, X...
*PHILIP T. MCCAFFREY, X...
*JOSEPH A. MCCLOSKEY IV, X...
*MICHAEL G. MCGOVERN, X...
*SUSANNE A. MILLER, X...
*ROGER E. NELL, X...
*DAVID NEWSOME, JR., X...
*DAVID L. PARKER, X...
*JFFFERY D. PEDERSEN, X...
*DON F. POLLACK, X...
*KARY B. REED, X...
*DAVID H. ROBERTSON, X...
*CHRISTOPHER W. ROYER, X...
*MICHELE B. SHIELDS, X...
*MICHAEL L. SMIDT, X...
*ROBERT C. SPINELLI, X...
*STEPHANIE L. STEPHENS, X...
*MARK TELLITOCCI, X...
*TIMOTHY M. TUCKEY, X...
*JOSEPH J. VONNEGUT, X...
*WILLIAM W. WAY, X...
*WALTER S. WEEDMAN, X...
*KERRY M. WHEELEHAN, X...
*MICHELE E. WILLIAMS, X...
*DAVID L. WILLSON, X...
*CATHERINE M. WITH, X...
*GREGORY G. WOODS, X...
*SCOTT F. YOUNG, X...

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

ARMY RESERVE

*To be colonel*

TIMOTHY ALBERTSON, X...
CARLOS M. ALVAREZ, X...
AMARAS AMARASINGHE, X...
THOMAS C. ANDERSON, X...
JAMES P. ASHER, X...
STEPHEN BAKERJIAN, X...
MILAGROS T. BANTON, X...
JUNE B. BARRETT, X...
ELAINE B. BAXLEY, X...
TERRY L. BELVIN, XX...
ROY E. BERKOWITZ, X...
JOHN M. BILLY, X...
STEPHEN C. BIRD, X...
MARTIN J. BLANCHARD, X...
SAMUEL P. BOEHM, X...
LUCAS H. BRENNECKE, X...
RICHARD M. BRIGGS, X...
SAMUEL, CAMPBELL, JR. X...
PAUL E. CASINELLI, X...
GODFREDO R. CELIS, X...
DONALD M. CHOATE, X...
RANDO CHRITIANSON, X...
MICHAEL S. CLARKE, X...
CHARLES B. CLIFFORD, X...
JONATHAN W. COFFIN, X...
RICHARD E. COLLINS, X...
JOSEPH COMPETIELLO, X...
ERIC P. COWART, X...
JOSEPH A. CURRO, X...
LAWERENCE H. DAVIS, X...
ANNETTE M. DEENER, X...
GIL E. DELOSREYES, X...
ROBERT L. DRYDEN, X...
VINCENT A. DUENAS, X...
THOMAS E. DUKE, X...
JAMES P. DUNN, X...
SAMUEL D. FEE, X...
HERMINIA P. FESTIN, X...
NORMAN A. FLAXMAN, X...
STANLEY L. FLEMMING, X...
ROBERT M. FREY, X...
DONALD J. FUCHS, X...
ALLEN GILDERSLEEVE, X...
GEORGE V. GOFF, X...
JOHN M. GRAHAM, X...
DANA H. GRAU, X...
ROGER E. GRAVEL, X...
LOUIS H. GUERNSEY, X...
ISAAC S. HADLEY, X...
ROBERT F. HAMBAUGH, X...
JOHN J. HASSETT, X...
W. HAYES, X...
SHELBY A. HEFLIN, X...
ROBERT M. HOUSE, X...
JEAN E. HOWARD, X...
RANDOLPH L. HUCK, X...
CATHERINE HUNDLEY, X...
ROBERT HUTCHINSON, X...
RONALD I. HUTTON, X...
OLEGARIO J. IGNACIO, X...
M. IRIZARRYMARTINEZ, X...
MILTON H. ISA, X...
PAUL A. JENDRIAN, X...
JAMES V. JOHNSON, X...
TERRY T. JONES, X...
WALTER E. JORDAN, X...
ANTOINE J. JUMELLE, X...
DONALD KAPLAN, X...
ROBERT J. KASULKE, X...
WILLIAM A. KEAN, X...
JACK L. KILLEN, X...
MICHAEL K. KIMBLE, X...
ROLF W. KNOLL, X...
WALTER M. KOBIALKA, X...
EDWIN J. KOHNER, X...
RUDOLPH R. KRAUS, X...
LUCIANO G. LADAGA, X...
ALEATHA W. LANDRY, X...
GEORGE E. LANNING, X...
BOBBILYNN H. LEE, X...
JAMES D. LEITZELL, X...
RICHARD M. LHEUREUX, X...
JACK M. MARKUSFELD, X...
AUDREY C. MCCOOL, X...
JANE I. MCCULLOUGH, X...
JOHN D. MCDOWELL, X...
RALPH E. MCELMURRY, X...
GERARD A. MCENERNEY, X...
REGINALD MCKINNEY, X...
DONALD L. MELLOR, X...
EDWARD A. METZ, X...
EDITA P. MILAN, X...
JAMES R. MILLER, X...
THOMAS D. MILLS, X...
JOSEPH MOONEY, X...
ARNOLD A. MYHRA, X...
JEANINE E. NORDEEN, X...
RONALD B. PADGETT, X...
MIGUEL E. PALOU, X...
TERRY E. PARKMAN, X...
DERICK PASTERNAK, X...
DIANNE T. PHILP, X...

ROBERT E. PICKARD, x...
JUDITH M. POLCZER, x...
TED W. PRATHER, x...
CHRISTOPHER C. RAND, x...
JAMES L. RIBARY, x...
ELISABETH ROBINSON, x...
BRUCE N. ROGERS, x...
ALFRED D. ROTH, x...
KENNETH M. SADLER, x...
MARK M. SAKAI, x...
JOHN V. SAWICKI, x...
JOSEPH SCHOONOVER, x...
ARJINDERPAL SEKHON, x...
SADASHIV S. SHENOY, x...
WILLIAM D. SHERMAN, x...
WILLIAM D. SHIRLEY, x...
WALTER W. SIGG, x...
DENNIS L. SIMCIK, x...
CHARLES W. SIMMONS, x...
GARY R. SMISEK, x...
DAVID C. SMITH, x...
TERRANCE L. SMITH, x...
TONY D. STEM, x...
TIMOTHY J. STROMAIN, x...
ROBERT A. STROUSE, x...
DAVID J. SZARELL, x...
JOHN R. TAITANO, x...
DAVID B. TATE, x...
JUDITH A. TAYLOR, x...
ROGER D. THOMAS, x...
KAREN B. TRATENSEK, x...
FRANCIS E. TRAXLER, x...
ALVAS C. TULLOSS, x...
GLENN E. TURNER, x...
JOHN C. TURNIER, x...
JAMES D. VALENTINE, x...
CARRASQUILLO VAQUER, x...
MILES H. VARN, x...
ORLA VAZQUEZTORRES, x...
FREDERICK G. VERNON, x...
ROBERT W. VIT, x...
WAYNE E. WALCOTT, x...
RONALD L. WALKER, x...
EARL WASHINGTON, JR., x...
WILLIAM A. WATSON, x...
CHARLES WEINSTEIN, x...
YOU Y. WHIPPLE, x...
ARVIS G. WILLIAMS, x...
DAVID A. WILLIAMS, x...
ADRIAN G. WILSON, x...
MICHAEL C. WITTE, x...
FRANKLIN D. WOO, x...
WILSON WRIGHT, JR., x...
KENNETH C. YOHN, x...
PHILIP R. ZELSON, x...

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

ARMY RESERVE

*To be colonel*

STEVEN R. ABT, x...
PEDRO J. ACOSTA, x...
CHARLES L. ADAMS, x...
MICHAEL K. ADAMS, x...
ROGER L. ALLEN, x...
JOHNNY M. ALLEY, x...
BEECHER C. ALLISON, x...
JANET S. AMOR, x...
CLIFFORD A. AMOS, x...
MICHAEL D. ANDERSON, x...
CHARLES C. APPLEBY, x...
WAYNE APPLEBY, x...
JAMES E. ARCHER, x...
NORMAN E. ARFLACK, x...
JEFFREY L. ARNOLD, x...
CHESTER A. ARTER, x...
LUIS A. AVELLANET, x...
DANIEL E. AVERETT, x...
MICHAEL A. BAILEY, x...
RICHARD A. BALLIET, x...
WILLIAM K. BAMLER, x...
BILLIE K. BANKS, x...
JULIAN D. BANKS, x...
TERRY F. BARKER, x...
GAIL A. BATMAN, x...
DAVID G. BATTAGLIA, x...
GREGORY W. BAXTER, x...
STANLEY R. BAYLEY, x...
JOHN F. BAYNES, x...
MICHAEL W. BEAMAN, x...
GRATEN D. BEAVERS, x...
ARTHUR C. BECK, x...
GEORGE A. BECKER, x...
ROBERT J. BEDELL, x...
THOMAS N. BEDIENT, x...
GEORGE M. BEDINGER, x...
CHARLES J. BENARDO, x...
DANIEL E. BENES, x...
JAMES L. BERDAN, x...
MYRON J. BERMAN, x...
DONALD R. BETZOLD, x...
JOHN M. BIDDLE, x...
PARK P. BIERBOWER, x...
RUSSELL V. BIERL, x...
JONATHAN BILLINGS, x...
HAROLD BILLINGSLY, x...
ABNER C. BLALOCK, x...
ANDREW S. BOGUS, x...
THOMAS A. BOLAND, x...
ARNOLD F. BONNER, x...
THOMAS H. BONORDEN, x...
THOMAS E. BOOTH, x...
KAYWARD BOUILLION, x...
WILLIAM J. BOVER, x...
GLADWYN G. BOWLIN, x...
WILLIE J. BOYD, x...
DOUGLAS M. BRANTLEY, x...
CRAIG E. BRASFIELD, x...
JOHN M. BRAUM, x...
ROBERT T. BRAY, x...
JUDITH E. BRENDEL, x...
GORDON M. BREWER, x...
M. BRILLON RODRIGUEZ, x...
JAMES K. BRINKLEY, x...
ALBERT H. BRINKMAN, x...
WILLARD BROADWATER, x...
SAMS C. BROUSSARD, x...
GLEN J. BROWER, x...
JAMES W. BROWN, x...
REX A. BROWN, x...
ROBERT C. BROWN, x...
STEWART J. BROWN, x...
CHRISTOPHER BROWNE, x...
JAMES A. BRUNSON, x...
HARRY L. BRYAN, x...
THOMAS M. BRYSON, x...
JOHN W. BUCHER, x...
BRUCE M. BUCHHOLTZ, x...
DAVID G. BUCK, x...
ELBERT T. BUCK, x...
BENJAMIN A. BUNN, x...
MELVIN L. BURCH, x...
RICHARD S. BURCHETT, x...
WILLIAM A. BURCHARD, x...
DAVID P. BURFORD, x...
DONNIE R. BURGESS, x...
MICHAEL T. BURK, x...
MICHAEL E. BURKETT, x...
JAMES L. BURSON, x...
ALBERT J. BUSH, x...
CAREY B. BUSSEY, x...
ALAN G. BUTKI, x...
DONALD D. BUTLER, x...
JOHN L. CAIRER, JR., x...
CHARLES A. CAMPBELL, x...
ROSS A. CAMPBELL, x...
WILLIAM M. CAMPBELL, x...
JAN M. CAMPLIN, x...
TIMOTHY W. CANNON, x...
LARRY J. CARNES, x...
EUGENE J. CAROLAN, xx...
MICHAEL E. CARR, x...
WELBORN A. CARR, x...
PAUL M. CARROLL, x...
RONALD A. CASSARAS, x...
GAYLE P. CHAFFIN, x...
ZACHARY R. CHAKY, x...
STEPHEN G. CHAMBERS, x...
DUNCAN G. CHAPMAN, x...
JAMES E. CHAPMAN, x...
CRAIG C. CHENEY, x...
JOHNNY P. CHERRY, x...
BOBBY CHIN, x...
DAN V. CHISHOLM, x...
WILLIA CHRISTOPHER, x...
RONALD L. CHUBB, x...
JOSEPH M. CLAPS, x...
ALAN N. CLARK, x...
DANNY D. CLARK, x...
WILLIAM G. CLARK, x...
ALBERT A. CLYMER, x...
ANTON COBIANMENDEZ, x...
FABIO H. COLASACCO, x...
WILLIAM D. COLVIN, x...
CLINTON E. CONERLY, xx...
CARLILE L. CONNER, x...
MANUEL CONSTANTINE, x...
WILLIAM R. COOK, x...
LARRY D. COPELIN, x...
ALBERT J. COPPOLA, x...
BILLY J. COSSON, x...
BRUCE W. COTTERMAN, x...
TERRY R. COUNCIL, x...
ROBERT S. COUTCHIE, x...
DON E. COWART, x...
JAMES D. CRAWFORD, x...
JAMES M. CREIGHTON, x...
CHARLES H. CRISS, x...
JAMES C. CROWDER, x...
ALAN R. CUNNINGHAM, x...
PAUL D. CUSHMAN, x...
STEPHEN C. DABADIE, x...
JOSEPH S. DANIEL, x...
BYRON W. DANIELS, x...
JAMES M. DAVIS, x...
S.P. DAVIS, x...
RICHARD C. DAWSON, x...
WILLIAM H. DEANE, x...
MAUREEN DECIANTIS, x...
JUDITH L. DELANEY, x...
RICHARD B. DELGADO, x...
MICHAEL DEMARTINO, x...
KENNETH J. DENSMORE, x...
MICHAEL J. DIAMOND, x...
DENNIS A. DIETZ, x...
RANDY J. DILLON, x...
DWIGHT L. DINKLA, x...
ARRINGTON DIXON, x...
CARMAN R. DIXON, x...
JOHN R. DIXON, x...
HOWARD B. DODSON, x...
KERRY B. DOLAN, x...
RICHARD G. DONOGHUE, x...
JOHN R. DOUGLAS, x...
WILLIAM J. DOWLING, x...
DENNIS C. DRAKE, x...
DONALD W. DRASHEFF, x...
THEODUS L. DRAYTON, x...
THOMAS E. DREW, x...
WILLIAM H. DROHAN, x...
HARRY M. DUBOSE, x...
WILLIAM C. DUESBURY, x...
DAVID N. DUNAGAN, x...
JAMES R. DUNCAN, x...
JAMES DUNKELBERGER, x...
JAMES P. DWYER, x...
DARRELL C. DYER, x...
RODNEY F. DYER, x...
CLARK J. EATON, x...
CHARLES K. EBNER, x...
ALAN A. ECKE, x...
JAMES P. EGGLETON, x...
DONALD A. ELBERT, x...
GEORGE K. ELBRECHT, x...
JERRY M. ELDER, x...
MAIOS ELIADES, x...
JOHN C. ELLIS, x...
JOHN J. EMIG, JR., x...
RONALD M. ESTROFF, x...
BARTON EVANS, JR., x...
JAMES R. EXNICIOS, x...
CALVIN D. FARR, x...
MARC M. FEINBERG, x...
ANTHONY J. FELITTO, x...
JOHN R. FENIMORE, x...
DONALD F. FINDON, x...
ROBERT FITZPATRICK, x...
CHALRES E. FLEMING, x...
WILLIAM A. FOGG, x...
JAMES D. FORD, x...
PATRICIA M. FOREST, x...
REX D. FORTNER, x...
CARY R. FOSTER, x...
JIMMY T. FOX, x...
ROBERT W. FREER, x...
ROBERT P. FRENCH, x...
MICHAEL J. FRIEDL, x...
ALAN K. FRY, x...
EDWARD D. FRY, x...
JAY A. FUGGITT, x...
SAMUEL FUOCO, x...
JAMES H. GABRIEL, x...
NEIL W. GAFNEY, x...
FRED W. GAGE, x...
PAUL J. GAJEWSKI, x...
ALAN C. GAYHART, SR., x...
DENNIS P. GEOGHAN, x...
JOHN P. GERHARD, x...
ROBERT C. GERHARD, x...
HARRY L. GIBSON, x...
MARK A. GILBERT, x...
RICHARD P. GLASGOW, x...
LARRY C. GLAZIER, x...
GLENN A. GLOVER, x...
GEORGE C. GOLLER, x...
JOHN S. GONG, x...
FRANCIS P. GONZALES, x...
KENNETH A. GONZALES, x...
GEORGE A. GORE, x...
MICHAEL A. GORMAN, x...
CURTIS GRANDSTAFF, x...
RORER J. GRANT, x...
TERRY F. GREENE, x...
DAVID E. GREER, x...
DAVID J. GRIFFITH, x...
DARRELL P. GRITTEN, x...
WILLIAM S. GROSS, x...
WILLIAM E. GROWNEY, x...
EDWARD J. GRUNDEL, x...
RAYMOND GUILLAUME, x...
JON O. GUSTFSON, x...
THOMAS D. HADDAN, x...
DIANA C. HAGLE, x...
CHARLES W. HAIR, x...
RONALD J. HAIRSTON, x...
DAVID A. HALL, x...
KENNETH E. HALL, x...
EDWARD J. HAMILTON, x...
KENNETH J. HANKO, xx...
DEAN R. HANSON, x...
GARY M. HARA, x...
BRUCE P. HARGREAVES, x...
LEROY HARRIS, x...
NOEL K. HARRIS, x...
ROGENA G. HARRIS, x...
BRINTON K. HARRISON, x...
JAMES H. HARRISON, x...
DONALD J. HASSIN, x...
JOHNATHAN S. HAUB, x...
JAMES HAUENSCHILD, x...
JOHN G. HAUG, x...
PAUL HAVEY, x...
RICHARD M. HELGESON, x...
RALPH B. HEMPHILL, x...
LEONARD HENDERSON, x...
GEORGE B. HENDRICKS, x...
ROBERT S. HEPPE, x...
ADRIA A. HERNANDEZ, x...
PATRICK R. HERON, x...
WILLIAM F. HERRBACH, x...
GARY L. HERRINGTON, x...
JOHN B. HERSHMAN, x...
JAMES F. HESSE, x...
DANNY H. HICKMAN, x...

ROY L. HIGGINS, x...
WAYNE F. HILL, x...
WILLIAM J. HILL III, x...
JAMES P. HILLS, x...
FENTON D. HIRSCHI, x...
KENNETH D. HISLOP, x...
JOHN F. HOLECHEK, x...
BENNIE J. HOLMES, x...
RONALD D. HOLMES, x...
JOHN S. HOOKER, x...
DAWN R. HORN, x...
MATTHEW A. HORN, x...
RICHARD A. HORTON, x...
DAVID A. HOSTETLER, x...
GREGORY A. HOWARD, x...
DONNA L. HUBBERT, x...
MICHAEL HUMPHREYS, x...
JOHN J. HUNT, x...
ERIN A. HURD, x...
WILLIAM E. INGRAM, x...
JOHN K. IRELAND, x...
ARLYN R. IRION, x...
STANLEY G. JACOBS, x...
DENNIS E. JACOBSON, x...
THADDEU JALKIEWICZ, x...
ROBERT N. JANNARONE, x...
MICHAEL A. JANOVICZ, x...
TOMMY J. JAWORSKY, x...
MICHAEL K. JELINSKY, x...
EDWARD M. JENKINS, x...
PATRICK L. JENKINS, xx...
PAUL E. JENSEN, x...
KLIXBULL O. JESSEN, x...
ALBERTO J. JIMENEZ, x...
ROBERT W. JOHANSON, x...
RALPH K. JOHNS, x...
JAMES L. JOHNSON, x...
KENNETH W. JOHNSON, x...
MICHAEL J. JOHNSON, x...
ROBERT M. JOHNSON, x...
RONALD D. JOHNSON, x...
RONALD E. JOHNSON, x...
WILLIAM G. JOHNSON, x...
FREDDIE L. JONES, x...
KEITH D. JONES, x...
PAUL L. JONES, x...
RICHARD A. JONES, x...
WILLIE E. JONES, x...
MARK T. JOOSSE, x...
WARREN E. JORDANS, x...
JOSEPH H. JUST, x...
ANTHONY D. KALISH, x...
ALLEN M. KAMEMOTO, x...
BERNARD S. KAMINE, x...
FRED A. KARNIK, x...
ROBERT A. KEESECKER, x...
WILLIAM H. KEETER, x...
EDWARD V. KELLY, x...
JOHN A. KENDALL, x...
RANDAL L. KENNEDY, x...
MICHAEL D. KERSHAW, x...
DENNIS C. KIM, x...
BARRETT T. KING, x...
STEPHEN E. KING, x...
WINSTON E. KING, x...
JACK A. KINGSTON, x...
BRUNO KIRSCH, JR., x...
ROBERT E. KLEBA, x...
ROBERT L. KLEIN, x...
GERALD L. KLINE, JR., x...
LEONARD P. KLOEBER, x...
CLIFTON F. KNIGHT, x...
LARRY KNIGHTNER, x...
ROBERT A. KNOTTS, x...
THEODOR KONFEDERAK, x...
JONATHAN H. KOSARIN, x...
JOHN E. KOSOBUCKI, x...
JOHN G. KOVASH, x...
ROGER W. KRAUEL, x...
JULIA A. KRAUS, x...
JOSEPH C. KULBOK, x...
GLENN J. KUNTZ, x...
DONALD W. LANE, x...
JOSEPH A. LANESKI, x...
GERALD E. LANG, x...
LARRY G. LANGHOFF, x...
GEOFFREY S. LANNING, x...
ROLAND M. LAPOINTE, x...
THOMAS E. LASSER, x...
RONALD C. LASSITER, x...
RUSSELL M. LATHEROW, x...
DANIEL W. LAWRENCE, x...
JOHN E. LEATHERMAN, x...
CLYDE M. LEAVELLE, x...
JOHN C. LEVASSEUR, x...
DEAN A. LEVAY, x...
GEORGE LEYH, JR., x...
KENNETH LIESCHEIDT, x...
EDDIE W. LILES, x...
VERNON C. LINDGREN, x...
RONALD G. LINN, x...
SHELBY K. LITTLE, x...
MICHAEL W. LOBDELL, x...
RONALD L. LOGSDON, x...
JAMES R. LONG, x...
ROBERT W. LOWRY, x...
MARTIN J. LUCENTI, x...
BRIAN M. LUDERA, x...
LEONARD LUZKY, x...
VERNON J. MACDONALD, x...
TIMOTHY V. MAHAR, x...
ANTHONY J. MAJEWSKI, x...
GREGG H. MALICKI, x...
ROBERT D. MALLAMS, x...
MICHAEL E. MALONE, x...
GARY A. MANKER, x...
RANDY E. MANNER, x...
JOHN A. MANTOOTH, x...
MARION D. MARSH, x...
GEORGE K. MARTIN, x...
JOHN T. MARTIN, x...
RAYMOND C. MASON, x...
DANA C. MATHER, x...
RICHARD J. MCCALLUM, x...
WILLIAM MCCLOSKEY, x...
KENNETH A. MCCLUNG, x...
WILLIAM L. MCCOY, x...
GEORGE W. MCCULLEY, x...
JOE D. MCDOWELL, x...
PATRICK F. MCGOVERN, x...
JEFFREY L. MCGOWAN, x...
JAMES P. MCILLWAIN, x...
RICHARD J. MCKENNA, x...
DAVID W. MCLAUGHLIN, x...
JAMES E. MCMANUS, x...
WENDALL W. MCMILLAN, x...
STEVEN C. MCNABB, x...
JOHN F. MCNEILL, x...
ROBERT J. MEHRING, x...
PETER D. MENK, x...
CHARLES L. MERCIER, x...
DANIEL MERRYFIELD, x...
JOHN A. MESKILL, JR., x...
MARVIN G. METCALF, x...
BERRI K. MEYERS, x...
JAMES MEZA, JR., x...
GREGORY B. MILLER, x...
ROBERT M. MILLER, x...
WILLIAM J. MILLER, x...
RANDAL M. MILLING, x...
DENNIS K. MINER, x...
JAMES A. MINOR, JR., x...
ROBERT D. MINTON, JR., x...
CREIG W. MITCHELL, x...
VERN T. MIYAGI, x...
TERRILL K. MOFFETT, x...
MICHAEL J. MORRISON, x...
CHARLES H. MORROW, x...
ROBERT P. MORROW, xx...
DAVID P. MURPHY, x...
JOSEPH F. NASH, x...
RONALD J. NASH, x...
WILLIAM R. NASH, x...
JOSEPH F. NEDER, x...
MURRAY A. NEEPER, x...
EDWARD J. NEIL, x...
DANNY L. NELSON, x...
DAVID E. NELSON, x...
CHARLES H. NEWELL, x...
JOHN D. NEWLOVE, JR., x...
JOEL B. NEWTON, x...
CRAIG NIEDERPRUEM, x...
JAMES W. NUTTALL, x...
DENNIS J. O BRIEN, x...
TIMOTHY F. O BRIEN, x...
CHARLES M. O CONNOR, x...
DOUGLAS M. O COYNE, x...
KEVIN J. ODEA, x...
HERSHELL ODONNELL, x...
RANCEFORD OKADA, x...
ANTHONY G. OLENCZUK, x...
REED C. OLSON, x...
JOHN R. ORESKOVICH, x...
WILLIAM N. OROSZ, x...
NICHOLAS OSTAPENKO, x...
MICHAEL B. PACE, x...
DALE L. PAINTER, x...
GARY A. PAPPAS, x...
DOMINIC A. PARIS, x...
JAMES R. PARKER, x...
JAMES S. PARKER, x...
JOHN C. PARSONS, x...
STEVEN D. PATRICK, x...
CLAUDE W. PATTERSON, x...
LARRY N. PATTERSON, x...
DAVID J. PAYNE, x...
JOHN M. PEARSON, x...
JOHN E. PENDERGRASS, x...
JOHN J. PERRONE, x...
PAUL C. PETERSEN, x...
WILLIAM M. PETULLO, x...
HARRY J. PHILIPS, x...
FREDRICK L. PICCO, x...
JOHN PIENKOWSKI, x...
LEROY N. PIERCE, x...
LARRY G. PIERSON, x...
MARVIN W. PIERSON, x...
DOMINIC E. PILERI, x...
WILLIAM B. PITTMAN, x...
NORMAN L. PIWONKA, x...
ROBERT A. POLLMANN, x...
GARY S. POPPLETON, x...
STEPHEN P. POULOS, x...
MELVIN E. PRICE, x...
MICHAEL L. PRICE, x...
UWE K. PRUSS, x...
ROBERT A. QUALLS, x...
GARY A. QUICK, x...
WILLIAM R. RADFORD, x...
DAVID W. RAES, x...
RONALD B. RAGLAND, x...
THOMAS R. RAGLAND, x...
JO A. RALYEA, x...
WILLIAM B. RANEY, x...
RODNEY L. RAWLINGS, x...
NANCY M. RAY, x...
JOHN J. REECE, x...
ROBERT E. REED, x...
JOHNNY H. REEDER, x...
STEWART A. REEVE, x...
JOSEPH D. REI, x...
ARNOLD RETHEMEIER, x...
ROSENDO C. REYES, x...
JAMES R. RHODES, x...
RICHARD A. RHODES, x...
STEVEN B. RICH, x...
ANDREW RICHARDSON, x...
HENRY B. RICHARDSON, x...
CHARLES T. ROBBS, x...
JON H. ROBINETT, x...
PETER G. ROBINSON, x...
TERRY L. ROBINSON, x...
DAVID ROCKEFELLER, x...
VICTOR L. RODRIGUEZ, x...
DAVID B. ROGERS, x...
GARY J. ROHEN, x...
JOHN W. ROLLYSON, x...
JOHN D. ROPER, x...
CHARLES ROSENBLUM, x...
CHARLES A. ROSS, x...
ROBERT O. ROSS, x...
KIRK W. RUBIDA, x...
MICHAEL J. RUSSO, x...
MICHAEL W. RYAN, x...
RANDALL T. SABINE, x...
LARRY G. SAGE, x...
ROBERT A. SALVIANO, x...
JAMES A. SANSONE, x...
ELI SANTANANAZARIO, x...
RANDALL E. SAYRE, x...
GARY K. SCHALL, x...
JOHN F. SCHARFELD, x...
STEVEN SCHEUMANN, x...
JAMES A. SCHILLER, x...
REX C. SCHOTT, x...
RICHARD SCHROEDER, x...
ROBERT W. SCHULKINS, x...
ROBERT W. SCHUPP, x...
JOHN T. SCHWENNER, x...
GARTH T. SCISM, x...
MICHAEL SEBASTIAN, x...
WALTER R. SEIFRIED, x...
JAMES O. SELF, x...
ADRIAN J. SERAFINI, x...
DAVID E. SERVINSKY, x...
RONALD J. SEVIGNY, x...
JAMES P. SEWELL, x...
JIM H. SHERMAN III, x...
TOM L. SHIRLEY, x...
CRAIG V. SHUEY, x...
THEODORE G. SHUEY, x...
JOHN G. SIGMAN, x...
ALISON L. SIMMONS, x...
JOSEPH N. SIMONIN, x...
JAMES L. SIMPSON, xx...
KENNETH SIMURDIAK, x...
THOMAS L. SINCLAIR, x...
RONNIE G. SKETO, x...
PAUL W. SKINNER, x...
SHALON N. SLEDGE, x...
CARLTON D. SLETTEN, x...
WILLIAM A. SLOTTER, x...
ROBERT H. SMILEY, x...
BRIAN J. SMITH, x...
DAVID N. SMITH, x...
PAUL S. SMITH, x...
RICHARD A. SMITH, x...
ARTHUR J. SOSA, x...
KENNETH R. SOUTH, x...
GENE D. SPARKS, x...
SAMUEL R. SPARKS, x...
PHILLIP R. SPEAKE, x...
JOHN E. SPEARMAN, x...
JAMES K. SPRINGER, x...
KARL R. SPRINGER, x...
DAVI SPRYNCZYNATYK, xx...
JOHN J. STANKIEWICZ, x...
KENNETH L. STARR, x...
JOHN B. STAVOVY JR., x...
FRANK J. STECH, x...
RICHARD D. STEPHENS, x...
JAMES M. STEWART, x...
CHARLES R. STONE, x...
THOMAS C. STREDWICK, x...
JACK C. STULTZ, x...
PAUL J. STURM, x...
GERRY L. SUCHANEK, x...
RICHARD C. TARICSKA, x...
DANIEL J. TAYLOR, x...
ROBERT S. TEMPLETON, x...
LAVOY M. THIESSEN, x...
FENTON THOMAS, x...
BENJAMIN THOMPSON, x...
JOHN S. THOMPSON, x...
REX E. THOMPSON, x...
THOMAS S. THORPE, x...
THOMAS D. THURY, x...
GARY L. TIDWELL, x...
ROBIN C. TIMMONS, x...
RICHARD A. TINDELL, x...
JERRY W. TIPPS, x...
GERALD R. TIPTON, x...
JOHN P. TOBEY, x...
ELROY K. TOMANEK, x...
ROBERT S. TOMASOVIC, x...
WILSON TORRES, x...

PETER V. TRAIN, X...
ROBERT G. TREGASKIS, X...
CLARENCE TRIPLETTE, X...
THOMAS M. TRITSCH, X...
HALL C. TRUNDLE, X...
GERALD G. TUCKER, X...
THOMAS G. TUCKER, X...
VAN N. TURNER, JR., X...
PATRICK J. TUSTAIN, X...
DANIEL D. TUTTLE, X...
LEW G. TYREE, X...
CLIFFORD UNDERWOOD, X...
MATTHEW L. VADNAL, X...
THOMAS VANDERPOOL, X...
ROBERT W. VANMETER, X...
JERRY A. VAUGHN, X...
EZEQUIEL VAZQUEZ, X...
LEWIS E. VEAL, X...
ARTHUR H. VERBURG, X...
EDWARD L. VEZEY, X...
STEPHEN VILLACORTA, X...
FREDERICK C. VOIGT, X...
DAVID C. VOLLRATH, X...
JEFFREY A. WAITE, X...
RICHARD M. WALFORD, X...
KENNETH WALKINGTON, X...
GEORGE M. WALLER, X...
WILLIAM L. WALLER, X...
ANN T. WALSH, X...
ELYSE G. WANDER, X...
ROBERT B. WANGEN, X...
ROGER L. WARD, X...
STEVEN S. WARD, X...
DOUGLAS C. WARNECKE, X...
BILLY A. WATKINS, X...
ROBERT K. WATTS, X...
ALLISON L. WEAVER, X...
JIM P. WEEMS, X...
WILLIAM H. WEIR, X...
FRANCIS E. WEISS, X...
JAMES P. WELCH, X...
GEORGE W. WELLS, X...
MICHAEL P. WELSH, X...
EDWARD W. WHITAKER, X...
ROZANN S. WHITE, X...
STEPHEN G. WHITLEY, X...
BERT J. WHITTINGTON, X...
ALBERT J. WILLIAMS, X...
DWIGHT S. WILLIAMS, X...
NORMAN K. WILLIAMS, X...
RANDALL F. WILLIAMS, X...
JOE D. WILLINGHAM, X...
MITCHEL WILLOUGHBY, X...
ADDISON G. WILSON, X...
JAMES L. WILSON, X...
MICHAEL E. WILSON, X...
ULYSSES R. WINN, X...
DENNIS WOOD, X...
ROBERT H. WRIGHT, X...
JAMES T. YARBROUGH, X...
JEFFREY L. YEAW, X...
MERREL W. YOCUM, X...
JAMES H. YOUNGQUIST, X...
GORDON J. YUSKA, X...
MARK E. ZANIN, X...
MICHAEL A. ZAVOSKY, X...
EMIL C. ZIMMERMAN, X...
JOHN E. ZUPKO, X...

## CONFIRMATIONS

### Executive Nominations Confirmed by the Senate January 30, 1997:

CONGRESS OF THE UNITED STATES

ALAN M. HANTMAN, OF NEW JERSEY, TO BE ARCHITECT OF THE CAPITOL FOR THE TERM OF 10 YEARS.

DEPARTMENT OF COMMERCE

WILLIAM M. DALEY, OF ILLINOIS, TO BE SECRETARY OF COMMERCE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

*To be general*

LT. GEN. LLOYD W. NEWTON, X...

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. MAXWELL C. BAILEY, X...
BRIG. GEN. WILLIAM J. DENDINGER, X...
BRIG. GEN. DENNIS G. HAINES, X...
BRIG. GEN. CHARLES R. HENDERSON, X...
BRIG. GEN. CHARLES R. HOLLAND, X...
BRIG. GEN. SILAS R. JOHNSON, JR., X...
BRIG. GEN. THOMAS J. KECK, X...
BRIG. GEN. RODNEY P. KELLY, X...
BRIG. GEN. RONALD E. KEYS, X...
BRIG. GEN. DAVID R. LOVE, X...
BRIG. GEN. EARL W. MABRY II, X...
BRIG. GEN. RICHARD C. MARR, X...
BRIG. GEN. WILLIAM F. MOORE, X...
BRIG. GEN. THOMAS H. NEARY, X...
BRIG. GEN. SUSAN L. PAMERLEAU, X...
BRIG. GEN. ANDREW J. PELAK, JR., X...
BRIG. GEN. GERALD F. PERRYMAN, JR., X...
BRIG. GEN. ROGER R. RADCLIFF, X...
BRIG. GEN. RICHARD H. ROELLIG, X...
BRIG. GEN. LANSFORD E. TRAPP, JR., X...
BRIG. GEN. THOMAS C. WASKOW, X...
BRIG. GEN. CHARLES J. WAX, X...
BRIG. GEN. JOHN L. WOODWARD, JR., X...
BRIG. GEN. MICHAEL K. WYRICK, X...

IN THE ARMY

THE FOLLOWING-NAMED ARMY COMPETITIVE CATEGORY OFFICER FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF MAJOR GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

*To be major general*

BRIG. GEN. LARRY G. SMITH, X...

THE FOLLOWING-NAMED ARMY COMPETITIVE CATEGORY OFFICER FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

*To be brigadier general*

COL. MITCHELL M. ZAIS, X...

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

*To be lieutenant general*

LT. GEN. JAMES L. JONES, X...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

*To be lieutenant general*

MAJ. GEN. MARTIN R. STEELE, X...

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING SAMUEL R. BAKALIAN, JR., AND ENDING JERRY A. WEIHE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

IN THE ARMY

ARMY NOMINATIONS BEGINNING ROBERT J. METZ, AND ENDING KATHLEEN W. CARR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING OWEN H. BLACK, AND ENDING DALE N. WOODLING, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1977.

ARMY NOMINATION OF RANDEL D. MATNEY, WHICH NOMINATION WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING *RONALD P. TURNICKY, AND ENDING MATTHEW W. RAYMOND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING JOHN E. RUETH, AND ENDING DOUGLAS R. YATES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATION OF PHILLIP J. TODD, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATION OF EMMANUEL M. CHIAPARAS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING *BENJE H. BOEDEKER, AND ENDING MARTHA K. LENHART, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATION OF *RUPERT H. PEETE, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING 4673X, AND ENDING *SCOTT A. SVABEK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING MARK S. ACKERMAN, AND ENDING DONNA L. WILKINS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

IN THE COAST GUARD

COAST GUARD NOMINATION OF LAURA H. GUTH, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING ROBERT R. ALBRIGHT II, AND ENDING JAMES R. DIRE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING FRANCIS C. BUCKLEY, AND ENDING ALLEN K. HARKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING RONALD G. DODD, AND ENDING MICHAEL E. THOMPSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING JOSEPH F. AHERN, AND ENDING CATHERINE M. KELLY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING ROY F. WILLIAMS, AND ENDING JOSEPH P. CAIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING GEORGE A. RUSSELL, JR., AND ENDING ELMO L. ALEXANDER II, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

COAST GUARD NOMINATIONS BEGINNING BRIAN C. CONROY, AND ENDING KAREN E. LLOYD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF JAMES W. BROWN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

MARINE CORPS NOMINATION OF CHRIS J. GUNTHER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

MARINE CORPS NOMINATION OF DOUGLAS S. KURTH, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

MARINE CORPS NOMINATIONS BEGINNING RANDALL N. MILLER, AND ENDING GARY W. SCHENKEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

IN THE NAVY

NAVY NOMINATIONS BEGINNING GARY D. BUMGARNER, AND ENDING REYNOLDO RESENDEZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.

NAVY NOMINATIONS BEGINNING MARCIAL B. DUMLAO, AND ENDING REBECCA L. KIRK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 1997.