SENATE—*Monday, September 15, 1997*

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

PRAYER

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

Gracious Father, this is a day for rejoicing over the manifold good things You have given us. Help us to take nothing and no one for granted. As we move through this day, help us to savor the sheer wonder of being alive. Thank You for giving us the ability to think, understand, and receive Your guidance. We praise You for the people You have placed in our lives. Help us to appreciate the never-to-be-repeated miracle of each personality.

We are grateful for the challenges we have before us, which compel us to depend on You more. Thank You, too, for the opportunities that are beyond our ability to fulfill so that we may be forced to trust You for wisdom and strength to accomplish them. We rejoice over Your daily interventions to help us; we even rejoice in our problems, for they allow You to show us what You can do with a life entrusted to You. Rather than pray, "Get me out of this," help us to pray, "Lord, what do You want me to get out of this?" Then free us to rejoice in the privilege of new discoveries.

Today, gracious Lord, we express our sympathy to Senator DANIEL AKAKA on the loss of his brother, the Reverend Abraham Akaka, who made such a great impact on the State of Hawaii. Bless this family in their time of need.

And so, Lord, in all things, great and small, we rejoice in You, gracious Lord of all. Through our Saviour and Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, we have the opportunity this week, I believe, to complete action on the Interior appropriations bill and on the Food and Drug Administration reform package. There has been a lot of work done on FDA, and I believe a consensus is evolving. Hopefully, within a day or day and a half, we could complete action on that bill this week. And if time permits, we will also take up the D.C. appropriations bill which would be the last of the 13 appropriations bills the Senate needs to pass.

Today, though, the Senate will resume consideration of H.R. 2107, the Interior appropriations bill. As announced earlier, there will be no rollcall votes today. Any votes ordered on amendments to this bill, H.R. 2107, will be set aside to occur at a time to be determined by the majority leader in consultation with the minority leader. Presumably, that would be in the morning, hopefully even early in the morning. The Senate will be able, hopefully, to conclude debate on the Interior bill by Tuesday. We have one of our most outstanding chairmen who is managing this bill. I think this one is going to be a handful for him, but they have worked out a number of issues. I feel like we will be able to get an early resolution and complete action on the Interior appropriations bill. Members are encouraged to contact the managers of the bill to schedule floor action on any possible amendments. I hope Members will not wait until sometime Tuesday afternoon or late Tuesday night, or whenever, when it is convenient for them to drop by if they have any amendments. If you have a good amendment, you get more attention, you get a better chance to have it properly considered and even get a vote if you show up early for work and offer your amendment.

As Members are aware, then, there will only be one appropriations bill left, and we will take it up later on this week or the D.C. appropriations bill will come up perhaps early next week. We need Members' cooperation in scheduling floor action, and we will attempt to conclude action on both these bills this week. We will notify the Members when rollcall votes are agreed to.

Under rule XXII, all first-degree amendments to S. 830, that is the FDA reform bill, must be filed by 1 p.m. today. I want to remind Members of that deadline.

I thank my colleagues for their attention, and I wish the chairman and manager of the bill, the great Senator from the State of Washington, good luck in completing his work.

I yield the floor, Mr. President.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER (Mr. ROBERTS). Under the previous order, the Senate will now resume consideration of H.R. 2107, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2107) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998.

The Senate resumed consideration of the bill.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 46, LINE 15

The PRESIDING OFFICER. The pending question is the committee amendment on page 46, line 15.

The distinguished Senator from Washington is recognized.

Mr. GORTON. Mr. President, the majority leader has already pointed out what he hopes will be the schedule in connection with this and other bills during the course of the week. As he said, there will not be any votes on any amendments to this bill today, but through most of last week, we expressed our views that today would present a wonderful opportunity to debate what may very well be the most controversial of all of the elements in the bill: the appropriation for the National Endowment for the Arts.

The notices that I have received in connection with amendments include more on that subject, those which are to be more liberal with the National Endowment than the bill has been and those wishing to be more conservative or to restrict its use or even to abolish its appropriation, have stated that they will produce such amendments.

We have asked as many of those Members to be present sometime during today's session of the Senate as possible. Most of them on Friday indicated that they would be able to be here today. Obviously, as the majority leader said, today gives them an opportunity to debate their amendments and to state their views on the National Endowment for the Arts in full and at leisure, where tomorrow may be somewhat more hectic.

So I hope that all of them who are in or around the Capitol and the staffs of all of those Senators who have an interest in the subject will urge them to come to the floor, offer their amendments, speak to the National Endowment for the Arts, complete much of the debate on the subject today so that we can vote tomorrow on that subject.

Having said that, Mr. President, noticing that no such Senators are present today, I have remarks on a subject of importance—vital importance—to the people of the State of Washington, one that has a high local profile and one that has also been of interest to the administration to the extent that it made a specific reference to it in its budget presentation this year. So

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

I will ask the indulgence of the President and will make my remarks with respect to the Elwha River dams at this point.

Mr. President, during the course of the last week, I said publicly that I would consider supporting removal of one of two dams on the Elwha River on the Olympic Peninsula in Washington State. Specifically, with important conditions attached, I can support legislation that would allow the removal of the smaller downriver dam. As this represents something of a change in my position, it warrants a more detailed explanation on my part—what this new position means and, just as importantly, what it does not mean.

For many years, national environmental groups, the Clinton administration, much of the media in the Pacific Northwest, and many Northwest elected officials have pushed for the removal of both dams on the Elwha River.

In 1992, I reluctantly supported legislation to begin the process of having the Government study and acquire both of these dams with an eye toward removing them at some time in the future. Even so, it is no surprise to anyone from Washington State to hear me say today that I have been less than excited about this proposal. While I always have been enthusiastic about the Federal Government's purchasing these two dams from a local paper company, I have been skeptical that Elwha River dam removal will provide significant benefit to our salmon resources.

For years, I have been told that 100-pound salmon used to fill the Elwha River, and that if we just removed these two dams, those big salmon would return.

While that is the proponents' most compelling argument—perhaps their only argument—for removal, I fear that it is one with the promises that have caused us to spend some $3 billion on the Columbia River, with little discernible effect, except on our power costs. If dams are the reason that there are no 100-pound salmon swimming in the Elwha River, why are there no huge salmon in dozens of other Olympic Peninsula rivers that have never been dammed? Will we waste our money on the Elwha as we have on the Columbia?

As you can tell, I have severe doubts about the wisdom of knocking down either of these dams under the guise of benefit to the salmon. I am quite certain, however, that there are other clear costs to their removal. Taxpayers must pay the huge costs of that removal. Power generation will be lost, and in the case of the Elwha River Dams, serious questions remain about potential damage to the city of Port Angeles' water supply. As I weigh these costs against the potential benefits to salmon, I have almost always sided against dam removal.

Unfortunately, the issue isn't as simple as a cost-benefit analysis. If it were, the costs of removing the two dams would certainly outweigh the potential benefit to the salmon. But, as I say, it is not just that simple anymore. There is a wild card to this issue that makes me nervous, a wild card that makes me want to act now, a wild card that, if played, could have a devastating effect on the Port Angeles community.

The desire of the Interior Secretary to tear down a dam, a proposal he has advocated consistently, together with the very real and growing threat that a Federal judge, or the Federal Energy Regulatory Commission, may order the removal of Elwha River Dams without congressional approval, present real threats to the community, are beyond our control and cannot be ignored.

A court- or agency-ordered removal may well impose all of the costs of removing the dams on the local community. Jobs would be destroyed, and Port Angeles' supply of clean drinking water would be threatened. The risk of court or agency action is too great and will leave the local community in a terrible position if a judge or Washington, DC, bureaucrat were to suddenly decide that he or she could take charge of this issue.

The lower Elwha River Dam produces only a modest amount of power, about a third of that produced by the upper Elwha River Dam, and a minuscule amount in comparison to our productive Snake and Columbia River Dams. In addition, Mr. President, the lower Elwha River Dam is in bad physical shape.

So, if Congress acts properly, we can remove the wild card from the deck and assure an important level of community protection. As a consequence, my support for this lower dam's removal is conditioned on legislated protection for Port Angeles' water supply and protection for the jobs created by the local mill. No legislation to remove an Elwha River Dam will pass the U.S. Senate without these protections, except over my strong objections, while I am a Member.

Mr. President, I must tell you that while I believe the course of action I am taking on the issue is the right one, I am disturbed by what is forcing me to take this step in such a hasty manner. I am driven by the threat of court action, or the possibility that the Federal Government might just step in and remove the dams on its own with no thought given to the concerns of the local community.

While I have come to this agonizing decision after years of internal and public debate about the fate of these dams, my decision has been driven by the unilateral activism this administration has demonstrated when it comes to complex environmental issues.

Based upon the Clinton administration's actions last year in Utah, can anyone not justifiably worry that a similar overreaching Federal Government authority will take place on the Elwha River? Is there any doubt that when this administration is faced with deciding between the desires of national environmental organizations and the needs of local communities, it always sides with the national environmental groups?

This is not an easy decision for me—it is made difficult by the dozens of meetings I've had with people most affected by this issue. I've listened to hundreds of local people who live near the Elwha River express their concerns with dam removal and what it means to the local community.

To be fair, I am also impressed by the work of a broad-based coalition of residents who have studied the issue and who may have originated the proposal to deal with the two dams separately, in a staged process. I want to commend the Elwha Citizens' Advisory Committee for its work on this issue, and all of the hard work that went into developing the committee's report, "The Elwha River and Our Community's Future."

I've also listened to the concerns of my constituents in eastern Washington, who while not immediately impacted by the removal of the Elwha River dams, are watching this debate closely because of their concern that something similar could happen on the Columbia or Snake Rivers.

I want to speak specifically to those people right now, Mr. President, and to anyone who might attempt to use my position on this issue as a justification for removing other dams in the Pacific Northwest, or as asserting that I believe the idea to be worth considering.

Because of the controversial nature of this issue, I think it is important that people understand what my position on the Elwha River dams does not mean. Some groups and elected officials support removal of Elwha River dams as a first step, a practice run, toward removing Columbia River system hydroelectric dams. Those who want to make a habit of dam removal should understand this proposition: I will never support their proposals to remove Snake or Columbia River dams—never.

Our Northwest forebears built for us the world's most productive hydroelectric system. It is our great economic legacy and continues today as part of the reason families in the Northwest enjoy the Nation's lowest power rates. This clean and renewable resource does not pollute.

These dams also irrigate productive farmland in Idaho, eastern Washington, and eastern Oregon. These dams have created an enormous and productive aquatic highway that moves our agricultural products to our ports. These dams save Portland, Oregon, and hundreds of other communities from disastrous flooding.

Of course, the Columbia River System dams exact an environmental price. They hurt our salmon runs. That damage was felt primarily in the 1930's and 1940's. Since the last Columbia River dam was constructed we continued to have large and healthy salmon runs. The last decade's alarming decline in Columbia River salmon runs obviously has more profound causes than our hydroelectric facilities alone.

We can do more for salmon especially by acting in a more intelligent and coordinated way to restore our Northwest salmon resources. But the costs associated with removing dams on the Snake or Columbia Rivers will always dwarf the potential benefit to salmon.

Therefore, Mr. President, I intend this year to work with my colleagues to complete acquisition of the two Elwha River dams with dollars from the Land and Water Conservation Fund. In addition, I will introduce legislation authorizing the removal of the lower Elwha River dam. But that bill will also contain three vital conditions I believe to be absolutely necessary at the same time:

First, a 12-year study of the impact of lower dam removal on fish populations before any consideration of removing the upper dam;

Second, a guaranteed hold harmless for the Pot Angeles water supply;

Third, no dam on the Columbia or Snake Rivers System can be removed, breached, or modified in a way that substantially destroys its ability to produce power, and provide irrigation, transportation or flood control without the prior authorization of Congress.

I think it is vitally important to America's taxpayers that the first condition be met. This is a very costly proposition—the Government estimates that it will cost as much as $60 million to remove the lower Elwha River dam. My sources tell me that those estimates are way too low and that the final cost could be much higher. Of course, no one really knows what this project might cost, which is why only the lower dam should come down now.

I want to be sure that when the inevitable day comes when national environmental groups and editorial writers push for removal of the upper dam, they have a true idea of what it will cost and whether the removal of the dam will actually work. The best way to do that is to study what happens when the lower dam is removed. We will be able to find out exactly what it costs to take out this dam, and, even better, we can find out once and for all whether removing a dam will actually bring back salmon.

I believe my second condition is only fair to the people of Port Angeles, and is one that should be met with little, or no, opposition.

As for my third condition, I think it is vital to my constituents in eastern Washington, and to my colleagues who represent Montana, Idaho, and eastern Oregon, that we in the Congress, and in the administration make the important statement that the dams on the Columbia and Snake Rivers are not to be touched in the immediate future, unless Congress has debated the issue and agrees.

Radical revisionists in the media, national environmental groups, and in the administration are actually talking more and more about tearing down 1 of the 11 dams on the Columbia and Snake Rivers. Just last week, a prominent Northwest newspaper had a lengthy story about the dam removal movement, and how the proposition for tearing down a dam on the Columbia River System was gaining momentum. As you can imagine, even talking about this subject causes huge concern in the communities that depend upon the river for their livelihoods.

It also causes a profound concern to this Senator, which is why I think it is important that we nip such a proposal in the bud, and nip it now. This legislation is the most appropriate place to do so.

With that, Mr. President, I have completed my thoughts on the policy of this proposal. Let me now discuss the practicality of getting this done in a reasonable amount of time.

Many of the advocates for Elwha River Dam removal think Congress should be able to fund the entire project out of the remaining money in the land and water conservation fund. Because I am chairman of the Interior Appropriations Subcommittee, these people believe that I can simply tell my colleagues that I intend to take $18.5 million of this money to complete acquisition, and then grab another $60 million for removal of the lower dam, leaving the remaining dollars—after the $315 million for the acquisition of the Headwaters Forest in California and the New World Mine in Montana, and the $100 million in State acquisition grants—for division among the other 49 States.

To those back home who believe that it is either fair or possible that I should be able to do that with a snap of my fingers, I suggest a lack of understanding of how Congress works.

Today we start in earnest on working through this year's Interior appropriations bill. In this bill, I have dealt with Washington State projects in a fair and generous fashion. We have been able to fund an additional $2 million for the Forest Legacy Program, $8 million for land acquisition in the Columbia River Gorge National Scenic Area, and an additional $3 million for forest health research at the Pacific Northwest Research Station.

Other priority projects which have been funded in the Senate Interior appropriations bill and directly benefit Washington State include: An increase of $3 million over the President's budget request for trail maintenance in the Pacific Northwest; $2.5 million to develop a visitors center, interpretive center, and educational center at the Vancouver National Historic Reserve; $500,000 in support of Lewis and Clark National Historic Trail activities; $2,452,000 to replace the Paradise employee dorm at Mount Ranier National Park; $750,000 for regional fisheries enhancement; $840,000 for construction of a trailhead and information station at the Steigerwald National Wildlife Refuge; and $275,000 for the North Cascades National Park to fulfill its obligations under various settlement agreements relating to the relicensing of hydroelectric projects.

I feel comfortable with what I have accomplished for my State, and proud of that work. I must admit that I would not feel comfortable simply demanding from my colleagues that the remaining acquisition funds come out of the land and water conservation fund without a strong statement of support from the administration and the entire Congress.

I believe such a statement is needed so that my colleagues from around the Nation can understand why their priority items are being placed behind spending an additional $18 million to complete the acquisition of the Elwha River Dams, and another $60 million to remove the lower dam. And Washingtonians may well ask themselves if they are willing to give up new projects like those I have already discussed for several years in order to put all of our fair share into Elwha River Dam removal.

Second, there is little chance that funds for removal of the lower dam will come from the land and water conservation fund. Frankly, I would be embarrassed to ask for such a sum. Out of fairness to other States around the country, I believe the funds for removal of the lower dam need to move through other channels, or at least be specifically authorized to come out of a land and water conservation fund primarily for land acquisition rather than capital improvements.

Just as the original legislation sponsored by Senator Brock Adams needed the authorization of the Energy Committee and the entire Congress, the extraordinary level of funding requested for this project needs to be authorized by Congress as well. My legislation will propose just that. And I hope that this legislation will be considered as swiftly as possible.

I realize that back home I will be criticized for not grabbing all of the funding for this project in this year's appropriations process. To those critics, I suggest an absence of rational thought and fairness.

Washington State does quite well under this year's Interior appropriations bill. Funding the removal of the

lower Elwha River Dam would dramatically tip the scales away from fairness, and rightly cause justifiable and successful opposition from my colleagues around the country who have vital programs in their States that need funding.

All of us want to get the most for our States, and in our hearts, we believe that every request for our State is an urgent priority, but in our minds we also know that we can't fund every request. That means we must balance our desire to help our States with the reality that Congress can only fund so many projects for each State.

As I said at the beginning of this debate on Friday, Mr. President, I had 1,800 requests from the 100 Senators in this body for projects in which they had a great interest, the huge majority of which were home-State projects.

That is the reality I face as I work to resolve this difficult issue involving the Elwha River dams. I know it is a reality that critics don't want to hear or acknowledge, but the simple truth is this—full funding of acquisition and removal this year is highly unlikely, and impossible without setting aside almost all other important Washington State projects, and something I am not willing to do.

Therefore, the best solution is to complete acquisition this year, and for that I need the administration to state publicly that this remains one of its top priorities. At the same time, I will start the process for removing the lower dam by introducing legislation for consideration by the Energy Committee, the administration, and the rest of Congress.

Mr. President, I thank you for giving me this time this morning to discuss an issue important for my home State. In summary, I guess I would finish by saying that on this issue of Northwest dam removal, tally me this way: "once, with conditions."

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

The PRESIDING OFFICER (Mrs. HUTCHSION). Without objection, it is so ordered.

NATIONAL ENDOWMENT FOR THE ARTS

Mr. BAUCUS. Madam President, I rise today to speak on the importance of funding for the National Endowment for the Arts, otherwise known as NEA. This endowment makes a tremendous impact on my State, and it worries me greatly that Congress is considering slashing it, or otherwise killing it through block grants.

I think President John Kennedy said it best when he said—and I will quote him now:

When power leads man toward arrogance, poetry reminds him of his limitations. When power narrows the areas of man's concern, poetry reminds him of the richness and diversity of his existence. When power corrupts, poetry cleanses, for art establishes the basic human truths which must serve as the touchstone of our judgment.

The people of my State understand that. Montana boasts a rich cultural heritage which can be seen in the work of such notable artists as Charlie Russell and Kevin Red Star. Our love of the arts can also be seen in the rich crop of literary talent that blankets the State.

I had a chance to witness that love of the arts firsthand last year when I worked with the National Symphony Orchestra on their trip to Montana. They broke into many, many groups—I think there were 120 different ensembles spread across our State—and I was fortunate to be able to conduct the National Symphony Orchestra in their encore performance in Billings, MT.

I think it is even more instructive to look at a smaller, more constructive event where the NEA makes a real difference every year in Montana. Shakespeare in the Park is a group of talented actors who travel around the State every summer offering free productions of Shakespeare to the public. And every July, for over 20 years now, they have come, for example, to Birney, MT. Guess what the population of Birney is. Seventeen.

The troupe of actors sets up their stage just outside of town on Poker Jim Butte. They perform two nights, and it is a big deal for the people of Birney. They hold their annual Birney Turkey Shoot for Spakespeare in order to help subsidize the productions. Every year they attract crowds of 100 to 200 people. Not bad for a town with a population of 17. The audience usually consists of farmers, ranchers, and native Americans. They are people who, without this event, might have to travel over 100 miles to see a Shakespearean play. This year's productions were Shakespeare's "Love's Labor Lost" and Moliere's "Learned Ladies"—two classic works that everyone should have a chance to see.

The Shakespeare in the Park program relies on the NEA grant they receive every year, and without it they would have to limit where they can go. That means that Birney might not get to see its yearly productions on Poker Jim Butte.

I think the responses to the Shakespeare in the Park productions speak for themselves. One parent, for example, said:

I want to thank you so much for coming to Richey. We are a small community with a total enrollment, grade and high school, of 91. It was great to introduce our children, especially the high schoolers, to Shakespeare and acting. It is rare for them, and us, to attend something other than a sports event.

Or listen to what another student had to say:

I have never had an interest in Shakespeare until I saw your program.

Madam President, I think this last quote is particularly insightful, particularly in this day and age when many people are afraid that the value of our great works has been diminished. Funding the NEA shows our commitment to the classics like Shakespeare, and it helps make sure that our kids can learn firsthand about these valuable works.

There are some in this body, however, who believe that Federal funding for the arts should end. These people believe that Federal funds can be replaced by contributions from private citizens and corporations. While this might be true in populated areas like New York and California, States like mine would have no way of making up the loss. I make that very clear. It just is not possible.

Quite simply, without the NEA, there are no arts in places like Birney, MT, or countless other communities across the country.

There are some who argue that we cannot afford to fund arts programs while we are cutting the budget. But when one looks at the total amount of money we spend in our budget, the figures for the NEA are rather small. The $99 million the NEA received last year was merely a small fraction of the total budget. That comes to less than 40 cents per person. But when one looks at all the great returns from our investment in the NEA, I believe it is money very well spent.

Finally, there are others who say the NEA should be defunded, eliminated, because it funds obscenity. I believe those are valid concerns, and I have to admit there have been a few poor choices in the past. But I believe that those problems have been addressed, and it would be a shame to focus on a few mistakes when there are so many good, worthwhile projects that the NEA has made a reality.

A complete list of Montana projects, museums, and artists who benefit from the NEA grants would be too long to give, but the following is a small example of the recipients:

Eight symphony orchestras in cities like Billings, Bozeman, Butte, and Missoula; over 20 nonprofit art museums and galleries such as the Liberty Village Art Center in Chester, the Jailhouse Gallery in Hardin, and the Hockaday Center for the Arts in Kalispell; and nearly 20 performing arts groups like Shakespeare in the Park and the Vigilante Players who tour to communities all across Montana.

In addition, the NEA funds go to organizations which make an effort to reach out to children, to educate them on the importance of arts in our society.

Without a doubt, NEA funding has made a real, positive difference in Montana. That is why I believe we should

continue funding this worthwhile program.

My basic philosophy toward the budget is this. We must have a budget that reflects our values. To have no funding for the arts truly takes away some of our humanity, some of what makes our Nation great. Those are not the values I want my budget to reflect. That is why I urge my colleagues to support full funding, with no block grants, for the National Endowment for the Arts.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. THOMAS. I also ask unanimous consent I might proceed as in morning business for 10 minutes.

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

The Senator from Wyoming is recognized.

Mr. THOMAS. I thank the Chair.

(The remarks of Mr. THOMAS pertaining to the introduction of S. 1176 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask that it be filed.

I just ask the distinguished manager of this bill if I could work with him to have it brought up at the appropriate time.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I commend the Senator from Texas in proceeding in this fashion. As I announced previously, there are a number of amendments we expect with respect to the National Endowment for the Arts. I believe that the proposal by the Senator from Texas will be a perfecting amendment, that she is attempting to improve it.

The logic in dealing with these amendments will be to deal with those amendments that strike or substantially cut funding for the endowment first. And so the willingness of the Senator from Texas to speak, as I am sure she will quite eloquently, to her proposition but not to introduce it yet will facilitate dealing with the matter when it comes to a vote in a more logical way.

Mrs. HUTCHISON. I will leave it to the discretion of the manager what is the right order because of course there will be a number of amendments dealing with the NEA.

My particular amendment takes the dollar amount that is in the bill and reallocates it and established a way to spend it. There will be amendments offered that will do other things. And I think it is really a healthy thing that we are going to be debating the NEA and what kind of funding the NEA has and how it is allocated, because I think a number of people in our country have concerns about some of the types of grants that the NEA has approved.

There have been inappropriate uses of NEA funding. The National Endowment for the Arts I think is a program that everyone hoped would establish as a priority a commitment to the arts in this country. I believe that is a proper commitment for our country to encourage arts in our country, to make arts accessible to all the people of our country, to educate our children in the importance of the arts.

All of these things are worthy goals. But because we have seen the funding of obscenity, of pornography, of things that you could not even in your most modest attempts to describe as art, many people have opposed the NEA. And many people have said, "We don't need it. Why would we want the Government involved in this?" I certainly have great respect for that view.

I do believe that there should be a commitment in this country to the arts. I speak as a person who grew up in a town of 15,000. My parents were very careful to try to make sure that I had access to the arts. They gave me ballet lessons for 13 years. You would have thought it would have taken. But after 13 years, I decided that maybe there was something else in my life that would be more successful than ballet.

They also made sure that I went to the nearest big city, when possible, to go to the symphony. They drove me to Houston, sometimes to Galveston, to see plays or to go to an art museum.

But, you know, many children in America are not as fortunate as I was because perhaps they do not have parents who thought this was important or that this would make their education more complete. Some children do not have that opportunity.

I want all children in America to have this opportunity, whether they come from families that do not have time to appreciate the arts because they are working so hard to make ends meet; or whether they come from a rural community that does not have easy access to a major city or regional arts center. I want to try to give that same opportunity that I think was important in my life to every child in America.

I would like to see school districts adopt arts appreciation programs because it is proven in the testing of our children in school that where children do have access to the arts, where they have arts appreciation or arts classes in their school curricula, they also do better in math and science and reading. That is a proven fact.

So we are not talking about something that is just extra that would be nice if we could afford it. We are talking about giving children a more well-rounded education and giving children the chance, by having the full range of education, to do better in the basic subjects.

So that is why I believe it is important for our country to have a commitment to arts education and to provide access to the arts for all the children so that some of them can grow up to be artists or to appreciate the arts and pass that involvement or appreciation on to future generations. I cannot imagine a country that is as developed, as technologically advanced as ours, that does not also have an appreciation for and a commitment to the arts.

That is why I am putting forward an amendment to this bill that would keep the allocation for 1998 exactly where the committee has it, $100,060,000 to be exact. But under my amendment, I would rearrange the priorities.

Instead of having the NEA make all of the grants with this money, I think it is time that we allocate to the States, in block grants, the bulk of the money. I think it is time that we have a more just and equitable distribution of arts funding.

For one thing, I think giving the money in block grants to the States—and I will talk about the very few restrictions we would put on this—gives the States the ability to fashion programs that will best meet the needs and priorities of their States. They can divide this money among, for example, arts access or education in the schools, transportation from rural areas to regional arts centers, or insurance programs for art museums to be able to sponsor national exhibitions that would otherwise not be seen by the citizens of that region outside of New York or Washington, DC, or California or Texas. I think it is important that states have that flexibility.

Also, under my amendment States would have the flexibility to invest up to 25 percent of their Federal funding in an endowment. I think that is important because I would like to see more States have permanent endowments for funding of arts and access to the arts within the State.

So here is what my amendment does.

First, it limits the administrative costs of the NEA. Instead of allowing

the 17 percent of the funding that the NEA now uses for administrative costs, my amendment would set a cap of 5 percent, reducing the money spent on administration to $5 million down from approximately $17 million. I think 5 percent should be enough for the allocation that the NEA would be able to grant to national art works.

The NEA grants to national groups or institutions would be 20 percent. The NEA would be allowed 5 percent for administrative costs to administer 20 percent of the total for grants to national groups or institutions.

My amendment would not allow grants to individuals, but only to institutions or groups. NEA would absolutely be prohibited from granting any obscene works. NEA could also not grant seasonal grants such as, for example, giving the Metropolitan Opera $1 million for its season, whatever works might be performed during that season. Grants would be for a specific project that the Metropolitan Opera would have to specify, so that the NEA would be able to know exactly what it was funding.

My amendment would also prohibit grantees from giving subgrants to other groups.

In other words, 20 percent, or $20 million, would be available for national grants to groups or institutions. Such groups would be opera companies, symphonies, art museums, ballets, or other groups or institutions that clearly serve a national purpose or exhibit a national stature.

These national grants would require matching grants. If the grantee—an art museum, for example—had a total budget of $3 million or less, it could cover up to one-third of the art project with Federal grant money. This way, two-thirds of the cost of the project would have to come from the local community or State.

If the grantee—for example, an art museum—has an annual budget of over $3 million, the maximum Federal funds the grantee could use for the project would be one-fifth of the total cost of the project. So for large institutions, the maximum contribution of Federal dollars would be 20 percent and the other 80 percent would have to come from local or State matching funds. These matching requirements would apply to the $20 million allocated national grants.

However, under my amendment the bulk of the Federal funds would go to the States in block grants, namely 75 percent or $75 million. That will guarantee level funding from fiscal year 1997 for every State and territory of the United States, up to 6.6 percent of the total funds available to the States for fiscal year 1998. The only two states that would not be guaranteed level funding from fiscal year 1997 would be New York and California. However, those States would be expected to seek a large portion of the $20 million in national grants. So under my proposal 75 percent of the Federal funds would go to the States in block grants, and almost every State in this country will get more of the arts funding under this allocation.

Behind me on the charts you will see the differences in the funding for each State. Most States will have a significant amount of funding beyond fiscal year 1997. I think it is time that States have more opportunity to support their school systems or their regional arts centers and provide more access to the arts by more people in this country.

States may use up to 25 percent of their funds to establish or enhance a permanent arts endowment. I think it is a worthy goal to give States this incentive. Under my amendment, States may contribute any amount of money in addition to the 25 percent, but they must match whatever portion they use for an endowment by at least 1 to 1. In other words, if the State of Oklahoma decides to have an endowment for the arts, it can take up to 25 percent of its Federal allocation but it must match that amount, dollar for dollar, with funds from other State, local, or private funds.

Of course, my hope is that eventually every State will have a permanent arts endowment so that they will be able always to ensure access to art that is available within their own communities and within their own States. But permanent endowments will also in the long run assure the States will be able to attract from the outside some of the national touring art shows, such as the wonderful Monet exhibition that traveled to the Fort Worth Kimball Art Museum. Many people in my part of the country would not have been able to see that exhibition had it not traveled to Fort Worth, TX. This is the case all over the country.

Right now the NEA serves a valuable role in supporting an insurance indemnity program that has allowed international blockbuster shows, such as the Jewels of the Romanovs, to travel around the country. People all over America, because of this insurance program, will have access to see the jewels from the Romanov dynasty in Russia that I hear are really incredible. Thanks to NEA funds, Americans have also had the opportunity to see the presentation of Tennessee Williams' "The Glass Menagerie." Shakespeare's "As You Like It" went to 45 communities in 26 States because the NEA helped them with the cost of touring. Those productions traveled to Cincinnati, OH; Keene, NH; and Orange, TX.

I think Senator BAUCUS earlier today talked about the Shakespeare plays viewed in Montana would not have traveled to Montana but for the help from the NEA. I think it is exciting when Senator BAUCUS says that someone in Montana said he had never even thought of reading Shakespeare until he was able to attend his first Shakespeare outdoor play and began to love Shakespeare and studying Shakespeare seriously. These are the kind of things that I think having a small national funding priority will continue to do for this country.

In Abilene, TX, the NEA has been helpful in starting the Abilene opera. There are so many people in west Texas who had never seen the opera and, in fact, thought the opera was a stuffy event that nobody would really enjoy but would just attend for social purposes. When they went to their first opera, the first opera they have ever had in Abilene, they came back just thinking, "what a joy, what a treasure." These people are now going to encourage people to contribute locally so that they can enjoy more opera productions. NEA funds were the seed corn that gave access to people who had never even seen an opera who now not only have seen one, but loved it and are contributing to bringing that experience to other people, especially children, in the west Texas area.

Regional touring by the best American dance companies to rural towns and small cities has been helped by the NEA. The production of performance specials and art documentaries by the Education Broadcasting Corp., WNET, in New York are now viewed by millions of Americans because that seed corn was planted by the NEA.

So that is why I am not among those who want to just do away with the NEA, because I believe that Americans overall will be more culturally aware and enjoy culture more, if they have the opportunity and exposure to the arts, which is ensured by our having a national commitment to the arts. I don't want to do away with that. Do we need to change the NEA? Yes. Do we need to impose strict prohibitions against obscenity and pornography? Absolutely, because it has been shown that because there have not been enough limits on the NEA, truly inappropriate use of our tax dollars has occurred. But I don't think that means we walk away from this commitment. I think it means that we change NEA, that we get control of it, that we make sure that the money is being used for what we intended it to be used for. But we don't walk away from it.

Let me give another example: Del Rio, TX, is on the border of Mexico. The average per capita income of Del Rio is about one-half of the national per-capita income. The population of Del Rio is 80 percent Hispanic. Yet, despite the economic difficulties that Del Rio faces, the people have a long history of commitment to the arts. In 1992, they converted their old firehouse into an arts center. The new arts center now holds free exhibitions of work of national, regional, and local artists.

It conducts art instruction classes. It offers free children's classes in the summer and supports a children's dance troupe that performs at civic and cultural events. All of this is helped by seed money from the NEA.

Mr. President, I think we have an opportunity here to get control of a funding program that has been abused in the past. But it has not been abused 100 percent. It has been abused but it has also done so much good for places like Del Rio, TX, like Beaumont, TX, like Cincinnati, OH, like Keene, NH. There are so many wonderful stories of young people getting their first access to the arts and their first appreciation for the arts because the NEA gave some grant money, some seed corn, to a local community, which was matched by that local community. Something was made possible because of the national commitment to the arts that has spurred many young people to go into arts as a profession. Artists or dancers or musicians who now belong to a symphony—all of these contributors to the arts in America began their careers from seed corn that came from a national commitment to the arts.

Now, I do understand how people have become very frustrated. But let's do something positive and productive with this frustration. Let's make something very good out of a modest commitment to national arts. Let's give our young children a chance either to excel in the arts or by an appreciation of the arts to make them more well rounded, to allow them to be literate in whatever circles they may walk. Let's allow them to have the same access that their European counterparts have. Many times I have been told that our young people do not have the cultural awareness that many of their age group in European countries have. I think they should. I think they should also appreciate the contribution of Americans to the great art of the world. The more young people to whom we can offer arts access and appreciation, the more of a contribution America will make to the world art community.

I think we have something that is worth keeping, and I think it is our responsibility to support it in a responsible way. That is why under my amendment I preserve the allocation of dollars but redistribute those dollars to allow the States to use arts funds in the way that will best give access to all people in their State. I oppose throwing out the national commitment to the arts, because we have proof that it helps our young people in all of their educational endeavors to have an appreciation and an awareness of the arts. We also know that art adds to the quality of life in our country.

If we are the greatest, freest, fairest nation on the Earth, which I believe we are, I think a commitment to the arts is part of keeping the well-rounded, cultural, thorough education of our young people at the premier level that we also value for the preservation of our freedom and democracy that are beacons to the world.

Mr. President, I am proud to sponsor an amendment. I will look forward to working with the manager of this bill to introduce it at the most appropriate time. I think this is an important debate that we should be having. I hope in the end when all is said and done that the bill we send to the President will say we have a national commitment to the arts in this country. We want to make sure it is done in the way that will give the most access to the arts to the most people of our country and that will give Americans an appreciation for what America contributes to the world art community.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I do not think it would be possible for a Member of this body to defend more eloquently the mission of the National Endowment for the Arts or the place that the arts in the broadest sense of that term play in our society than we have just heard from the Senator from Texas.

From the beginning of the debate over this issue she has taken a consistently supportive position but not a position that simply supports the status quo blindly. She helped draft the conditions a year or 2 or 3 years ago that prohibited the National Endowment for the Arts from making a broad range of individual grants that were the source of most of what the vast majority of the American people regarded as outrageous misuses of the taxpayers' money. And here today, she does not defend the status quo—though, essentially, the status quo is what is proposed by this bill in its present form—but is attempting to strengthen the Endowment by decentralizing the granting process to a significant degree, and by spreading it in a way that she feels is more equitable across all of the States and jurisdictions of the United States.

So this is one of the amendments that is a friendly amendment, one can say, and it was for that reason that I asked her to defer formally introducing it until we could hear from the opponents of the Endowment itself and deal with the several amendments on this subject in logical fashion.

As the Senator from Texas knows, the committee bill that is on the floor at the present time simply makes a very modest—probably less than inflation—increase in the Endowment, maintains essentially the same conditions that have been imposed on it over the last 2 or 3 years, but does not attempt to change the structure of the way in which those grants are made. I think that the proposal of the Senator from Texas is likely to be considered very carefully and thoughtfully by her colleagues here on the floor and, if not here on the floor, perhaps in a conference committee where, as all Senators are quite well aware, we will be faced with a House position that is essentially to abolish the National Endowment, and which will almost certainly require us to make some changes in the proposal that is here before the Senate in order to assure an acceptable compromise.

So, without at this point taking a position on the specific amendment proposed by the Senator, I do want to say that I am convinced that it is a constructive contribution to a very important debate.

Mrs. HUTCHISON. Mr. President, I want to thank the Senator for those remarks. I think that he, too, is approaching this in a positive way. Like the Senator from Washington, who is chairing this very important subcommittee, I don't have ideas that I consider to be in concrete and I am not unwilling to change allocations or hear other views. But I think if you are going to make constructive change, you have to start with an outline. I think that is what the Senator from Washington has done. While he has brought the bill to the floor, essentially not changing the status quo, he has always been open to suggestions on ways to make it better. I think, in the end, in conference, if the Senate will speak in what I hope is a decisive way on the approach that it wants to take, then I would like to see us work with the House to do something that will be constructive that will preserve our national commitment to the arts. But I would hope that whatever we do, we make the American people feel comfortable and give them something they think is worth their hard earned tax dollars, something that will give their children better access to the arts and enhance their education, if you will, something that the American people would write if they were standing here on the floor.

I am speaking from my roots. I am speaking as a person who has benefited greatly from growing up in a town of 15,000, with the strong values that this small town gave me, but with wonderful parents for whom I can never fully express my appreciation. They knew that while I learned the values represented in that small town, there were other important things for my education, such as appreciation for the arts, for which they would have to make an extra effort to give me. They did make that extra effort. But, Mr. President, not everyone has parents like I had.

What I want when we finish this bill is for us to have made up for the fact that every parent is not as responsible as mine were and does not give every child the same access that I had, the

same opportunities that I had. I want to see that we in the Congress kept our commitment to funding of the arts for our children all over America, from whatever part of the country. If we can take that responsible action, then every girl who grows up in a town of 15,000 with no arts of its own will have the same access that I was fortunate enough to have, and I think we will be a better country and make a stronger contribution to the arts of the world if we keep this commitment. Thank you, Mr. President.

I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. I have an amendment that I would like to file. I will not offer it at this time, but I would like to file it.

The PRESIDING OFFICER. The amendment will be received.

Mr. HUTCHINSON. We have heard many arguments over the years that the National Endowment for the Arts [NEA] is not living up to its original intent of "broadening public access to the arts." In fact, in NEA's original mandate and mission statement, they are charged with the responsibility of broadening public access to the arts. That is the key question: Have they really fulfilled that? We have heard a lot of debate through the years as to whether the NEA has really fulfilled that mandate.

In fact, one-third of the Federal share currently goes to six of the largest cities in the country. The agency, in addition to sending most of those direct grants to six large cities, has also demonstrated soaring administrative costs. Nearly 20 percent of every dollar that the National Endowment for the Arts expends is spent in overhead here in Washington, DC—much more than most of the Federal agencies—even more, for instance, than the National Endowment for Humanities (NEH). NEH's overhead costs are much, much less than that 19 to 20 percent figure.

Furthermore, the NEA continues to fund what many Americans believe is objectionable art. While we have heard a lot of debate on those issues—the administrative costs, the formula, whether or not it is fulfilling its mandate—very few actual solutions have been offered.

So, this afternoon, I want to present what I think is a common-sense solution to the problems that we have seen in the National Endowment for the Arts. I ask the question: What happens to the novice artist, or the songwriter in middle America, when the NEA funnels one-third of its direct grant funds to only six cities? Those cities are New York, Boston, MA, Los Angeles, CA, Chicago, IL, San Francisco, CA, and the District of Columbia. Each one of these six cities already has well-established arts communities. Yet, the NEA continues to pour a huge amount of its limited resources—over one-third of its direct grants—to those six cities.

So what happens to that new artist, that songwriter just starting out in Arkansas, or in the State of Oklahoma, or in Iowa, or the startup band in Small Town, U.S.A., who doesn't have their dreams realized, when one-fifth of direct grants are sent to multimillion dollar arts organizations who already benefit from over $11 billion in private giving each year? In fact, the private giving to the arts, combined with what is spent and purchased on tickets, is almost equal to that which is spent on professional sports in this country.

And most tragic of all, I believe, is: What about the children? As my colleague, Senator HUTCHISON from Texas, spoke so eloquently on, the children in rural towns across this Nation who only dream of ever seeing the lavish theaters in New York City—what happens to them when they are denied the opportunity to perform a school play because bureaucrats in Washington awarded $400,000 to the Whitney Museum for one single exhibit rather than their school play?

Mr. President, how can we justify this kind of very, very selective spending? For instance, in the State of Arkansas, the average per-person expenditure from the National Endowment for the Arts amounted to, if you divided it up for every man, woman, and child in the State, 17 cents per person. The State of Arkansas has a per capita income of about $18,000. My home State received, out of the $99.5 million appropriated for fiscal year 1997, approximately 17 cents per person. And then we turn around and look at the State of Massachusetts, which has a per capita income of $30,000—not quite, but almost twice the income in the State of Arkansas—and the National Endowment for the Arts has decided in its infinite wisdom to spend 60 cents per person in the State of Massachusetts.

That is what I regard as very selective spending. In the State of Mississippi, with a per capita income of about $18,000 per person, they received about 25 cents per person from the NEA last year, while the State of New York, which has a per capita income of $29,000 per person, received $1 per person from the National Endowment for the Arts. After looking more closely at the per capita numbers, the NEA used very selective funding. The Midwestern State of Iowa, with a per capita income of $22,000, received 20 cents per person, while the State of Maryland, with a higher per capita income of $27,000, received more than twice the per capita expenditure than the State of Iowa—Maryland received 45 cents per person. That is very, very selective spending on the part of the National Endowment for the Arts. How can we justify that?

Then when you break it down by political party, it becomes even more intriguing. Last year, NEA funding totaling close to $45 million was sent to congressional districts represented by Democrats in Congress, while about $14 million was sent to congressional districts represented by Republicans across the country. If you break that down by the number of direct grants from the National Endowment for the Arts, you find that almost 1,300 direct grants went to congressional districts represented by Democrats, while only 408 went to congressional districts represented by Republicans.

When the funding is broken down per district, on average, about $223,000 was sent to districts represented by Democrats, and on average, about $60,000—almost one-fourth—went to congressional districts represented by Republicans. And you can go on and on.

The fact is that $3 out of every $4 going to the States is going to congressional districts represented by Democrats. That is very selective funding. As one observer in Arkansas said, "Why not send the $100 million to the Democratic National Committee and cut out the middle man?" It has become a very selective funding formula used by the National Endowment for the Arts.

Well, I cannot and will not justify what I think is inequitable and out-of-control spending by an elitist agency rife with problems and abuses.

So, Mr. President, it is time to bring this funding into line and it is time for a solution. So I rise today, along with several of my colleagues, to offer a solution. I see Senator SESSIONS here on the floor. I hope he will speak as a cosponsor of this amendment. I offer a solution that gets the money down to the artists, the songwriters, that startup band, that local writer, the painter on the local level and, most importantly, down to our children—a solution that fulfills the NEA's original mandate and mission statement of "broadening public access to the arts."

When you look at what is spent in Mississippi as compared to what is spent in New York, or in Massachusetts as compared to what is spent in Iowa, I think there is no one who can, with a straight face, defend the National Endowment for the Arts and say they are fulfilling their mission statement of broadening public access to the arts.

So the amendment I am offering today supports my belief that there are potential artists everywhere and in every corner of every State. From the plains of Wyoming to the mountains in West Virginia, from the Mississippi Delta to the potato fields of Iowa, we have budding artists, potential artists, everywhere.

Contrary to Jane Alexander's notion that "the areas of nurturing and development of artists tend to be located in a few States * * * "—by the way, Jane Alexander made that statement in our

April hearing before the Labor and Human Resources Committee.

Mr. President, I ask unanimous consent that her statement made before the Labor and Human Resources Committee be printed in the RECORD.

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

Ms. ALEXANDER. Let me suggest an analogy here with regard to the arts. You are correct that Arkansas received very little in the way of awards and dollars this year. Again, they would have received more, of course, had we had the budget that we had before. However, an analogy that might be appropriate is that there are apples grown in practically every State of the United States, but there are few States that have the right conditions for nurturing and developing apple trees; and then, they are distributed all throughout the Nation.

The same is true of the arts. The talent pools, the areas of nurturing and developing of artists tend to be located in a few States—but there are artists everywhere.

Mr. HUTCHINSON. Ms. Alexander said, "* * * the areas of nurturing and development of artists tend to be located in a few States * * *" I take great exception to that. In fact, I take great offense to that statement. I believe artists are everywhere—in every city, town, and county across this Nation, in every home, in every schoolyard, in every playground in America. It is time that talent is recognized and realized. It is time that the elitist attitude that says that the pools of artistic talent in this country are restricted to a few small States is rejected once and for all. In fact, my home State of Arkansas is the home State to many famous artists; John Grisham, author; William McNamara, painter; Billy Bob Thornton, Academy Award winner for his role in "Slingblade"; Mary Steenburgen, actress; Vance Randolph, famous folklorist; and Maya Angelou, famous poet. On and on the list goes.

So the pool of talent in this country is not restricted to a few States where we should put our limited resources from the National Endowment.

Simply put, my proposal would cut out the Washington middleman and send the arts dollars down to the States so that those who are closest to the unknown writer, the start-up band, or the schoolchild, can make the decisions as to where those wise investments will be made to those individuals who might otherwise have been passed over for the well-endowed Whitney Museum or the Boston Symphony, which has a $43 million annual income, or the Art Institute of Chicago, which has a $96 million annual income, or the Metropolitan Opera, which has $133 million in total annual income. In giving grants to those great, but well-endowed institutions, we rob from those who need it most and who would best fulfill the mandate that the National Endowment espouses.

Additionally, by getting the decision-making out of Washington, the nearly 20-percent in administrative overhead the agency currently maintains is virtually abolished. That 20 percent currently being spent on administrative overhead in Washington would be awarded back to the States. It is the artists all across America who win under this proposal, who stand to be recognized by their home State rather than by a bloated bureaucracy in Washington.

In fact, as we will demonstrate on this chart—and I hope that all of my colleagues in the Senate will take a look—we will have a handout for them—45 out of 50 States will gain under this block grant proposal. Cut out the 20-percent administrative overhead, limit administrative costs to 1 percent, write the checks to the Governors, send it to the States' art councils or to the State legislatures, and in so doing we will have more resources to send directly to those who will benefit most from them.

In fact, all but a few States—45 out of 50—will increase arts dollars compared to last year. Most notably, for Senators MACK and GRAHAM from the State of Florida—Florida will receive almost $3.4 million more than last year, while the artists in Texas, Senator HUTCHISON's State, will benefit from close to $3 million more than in fiscal year 1997. How do we do that? We take that 20-percent bloated administrative cost in Washington, eliminate the National Endowment, let the Secretary of the Treasury write a check to the Governors to go through the legislature or the State arts councils, limit State administrative spending to 15 percent, impose strict auditing requirements, award a $500,000 basic grant to each State, and then expend the remainder of those dollars under a per capita formula—45 out of 50 States will be winners. Florida, $3.4 million; Texas, $3 million. This commonsense solution seeks to give the dollars directly to the States in an equitable fashion, particularly to many underserved areas, and, most importantly, permits more local control of this money.

Moreover, this proposal includes clear and precise language requiring States to conduct strict audits on the Federal dollars they receive, as well as submit a report for public inspection within that State. Let the public know how the money is being spent. Let the public have the reassurance that audits are being performed and that strict accounting measures are being followed. Any State found to have misused their Federal funds under the guidelines set forth in this amendment will be required to repay the money, plus a 10-percent penalty, to the Treasury.

Mr. President, in my efforts to find a solution to the current inequities that exist in the distribution of arts dollars, I solicited feedback on this proposal from a number of individuals, including our current Governor of the State of Arkansas, Gov. Mike Huckabee. We had staff talk with his staff. I personally talked with Governor Huckabee, and was encouraged by his enthusiastic response to this block grant approach. I asked him point blank, "Would Arkansas benefit from having more control over arts dollars for the budding artists, musicians, writers, and actors in Arkansas?"

I am very pleased to report that he gave a resounding thumbs-up to this proposal. He believes very much that this proposal will benefit the State of Arkansas. I quote from Governor Huckabee's letter. Mr. President, I ask unanimous consent to have printed in the RECORD the entire letter from Gov. Mike Huckabee from the State of Arkansas.

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

STATE OF ARKANSAS,
OFFICE OF THE GOVERNOR,
Little Rock, AR, September 11, 1997.

Hon. TIM HUTCHINSON,
U.S. Senator,
Little Rock, AR

DEAR TIM, I am in full support of the proposed amendment regarding the manner in which grant funds from the National Endowment of the Arts will be distributed to the states. I believe states have a better understanding of their needs and a much closer relationship with our constituents at the state level than a bureaucracy in Washington.

As you are aware, the citizens of Arkansas have recently voted for an increased tax upon themselves, part of which is going to the Department of Heritage, the state agency that is responsible for distributing funds for development of the arts in Arkansas.

As a state, we have a need for the continued support of developing art talents, as well as making the Arts available to the public. I appreciate your leadership on this, and I am in full support. If I can assist this effort in any way, please let me know.

Sincerely yours,

MIKE HUCKABEE.

Mr. HUTCHINSON. Mr. President, Governor Huckabee wrote, "As a State, we have a need for the continued support of developing art talents, as well as making the arts available to the public." Then Governor Huckabee went on to state that he "believes States have a better understanding of their needs and a much closer relationship with our constituents at the State level than a bureaucracy in Washington."

I think what Governor Huckabee said would be echoed by Governors—both Democrat and Republican—all across this country; that, if they could receive those funds directly, have control over them, be able to make the decisions as to where those grants should go, we will have a more productive arts community in each one of our States.

Mr. President, it becomes increasingly harder to justify the existence of the National Endowment for the Arts' Washington bureaucracy when one takes a more careful look at the overhead and the salary costs of this agency.

For example, from 1994 to 1996, the administrative costs of the National Endowment for the Arts went from a little over 14 percent in 1994, 14.4 percent, to almost 19 percent in 1996, at a time when the agency was cut by 39 percent, and was faced with a loss of 89 positions. The administrative costs amount to almost 20 cents on the dollar. At a time when the NEA was cutting budgets and the number of positions at the agency, administrative costs as a percentage of their budget went up to nearly 20 cents on every dollar of our constituents' hard-earned paychecks.

My constituents in Arkansas wonder why it costs almost $19 million to distribute just over $50 million in NEA direct grant funds. They wonder for good reason—$19 million to distribute $50 million. These are their hard-earned tax dollars on the line. I don't doubt that many of my colleagues' constituents have exactly the same questions.

A closer analysis of how the NEA spends its administrative budget raises even further questions about the efficiency and effectiveness of the agency. While the agency repeatedly complains of the draconian effects of the budget cuts on its staff, over 68 percent of the 154 individuals currently employed by the NEA earn over $50,000 per year. Let me repeat that. The agency complains about the burden that they are facing under the budget cuts that have been imposed over the last couple of years, but at the same time over 68 percent of their staff out of 154 individuals employed by the NEA, are earning over $50,000 per year. That is the equivalent of an average constituent in Arkansas earning three yearly salaries in just 1 year.

To make matters worse, the NEA's own inspector general uncovered significant problems, deficiencies, and abuses during its audit of grantees from 1991 to 1996. This chart demonstrates some of the inspector general's findings—not a Republican committee nor a Republican chairman—but the NEA's own inspector general found this:

Sixty-three percent of the grantees had project costs that were not reconcilable to their accounting records. That is well over half. Sixty-three percent of the grantees could not reconcile their accounting records.

Seventy-nine percent, over three-fourths, had inadequate documentation of personnel costs charged to the grant. That is money going to individuals. That is personnel salaries that are unaccountable, according to the NEA's own inspector general.

Fifty-three percent had failed to engage independent auditors to conduct grant audits as is required by OMB guidelines. The Office of Management and Budget requires that these audits be conducted, and over half did not do so.

I am curious. Those who are advocates of the National Endowment, those who are advocates of maintaining the status quo—and I heard them speak on the floor of the Senate today—they speak eloquently on behalf of art; they speak eloquently on behalf of culture. But I have not heard any of them respond to these findings conducted by the inspector general that find blatant misuse of taxpayers' funds. Fifty-three percent—over half—not even complying with the Office of Management and Budget's requirement for independent audits.

These numbers are alarming. They are intolerable. They compel us to change the status quo. The best way we can change it is to rid the country of the National Endowment and send the money down to the States where it can truly go to benefit arts on the local level and fulfill the original intent and mandate of the NEA. As if this scenario is not gruesome enough, how is it justifiable that the NEA assisted in promoting the President's William D. Ford Federal Direct Student Loan Program? That is correct—the NEA, under an interagency agreement with the Department of Education, provided design assistance for marketing materials promoting the President's Direct Student Loan Program. This is the National Endowment for the Arts. This is the agency originally established to broaden access to the arts in this country. This was the agency established so that underserved areas like Virginia, Arkansas, Oklahoma, and Alabama with start-up artists who want the opportunity to build a future in the arts community, would receive funding for these purposes. Instead, we find a grant going for surely a strictly political and not arts-oriented program—the promotion of the President's Direct Student Loan Program. You can take any position you want on the President's Direct Student Loan Program, whether that is the right way to go or not, but to use NEA funds to promote it—that is indefensible.

Although the NEA claims that the Department of Education reimbursed the agency $100,000 under this agreement, the NEA reports that they have no accounting of the time or expenses they incurred in providing those services.

Mr. President, how much more mismanagement of taxpayer money will we tolerate? When is enough, enough? Well, enough is enough for me.

Mr. President, I cannot sit idly by while our tax dollars are used and abused by a Washington bureaucracy.

The proposal I am offering today, along with several of my colleagues, is the fair solution to an agency run amok. It sends arts money directly to the States, eliminating the high administrative costs currently plaguing the agency. It shifts control from Washington bureaucrats to those closest to our artists and calls for strict auditing by the States. It initiates a more equitable distribution of Federal arts dollars on a per capita basis, benefiting more currently underserved areas, and significantly increasing the award amounts for all but a few States. Most of all, it makes good on the original mission of the NEA—to broaden public access to the arts.

The horrendous realities I have outlined today have compelled many, including myself, to the conclusion that, over the years, the NEA has failed to live up to its legislative mandate of increasing access to the arts and has gotten into the business of picking favorites—making the National Endowment the arbiters of art in our culture.

In summary, the NEA is rife with abuses: extravagant administrative costs; poor management, and a vacuum of oversight, according to the GAO; glaring inequities in distribution; a biased process where the East does better than the South, the big cities do better than rural America, Democratic districts do three times better than Republican districts, higher-income States fare better than lower-income States, and the haves get more and the have-nots continue to have not; wholesale failure to fulfill its original mission to broaden public access to the arts, and the adoption of a kind of trickle-down arts theory in which the arbiters of art reside primarily in Washington, DC. My amendment would end publicly subsidized cultural elitism by sending these decisions back to the States, more money for the arts and less for the bureaucrats, more resources for 45 of the 50 States and less for 5 States, more accountability and more local control.

I urge my colleagues to support this amendment. It is fair. It is equitable. It is common sense. And the artists, musicians, and writers in your home State depend upon the resources that this amendment will make available.

I yield the floor.

Mr. WARNER addressed the Chair.

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

(The remarks of Mr. WARNER pertaining to the introduction of S. 1177 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, I appreciate the opportunity to be here today to join with my good friend from Arkansas, Senator HUTCHINSON in cosponsoring what I think is an outstanding amendment to the fiscal year 1998 Interior Department appropriations bill, an amendment which will do more for the arts in America than we have ever done before. Simply put, the Hutchinson/Sessions amendment will

produce more diversity and quality in the arts. We need and I strongly support a healthy arts community in America. It is important and it is valuable.

Madam President, I attended a liberal arts college. I believe in having quality arts to lift and improve the lives of American citizens. I think we ought to strengthen it. I encourage and salute those who contribute selflessly to the symphonies and museums and all sorts of artistic activities in their communities. This is what helps make us the great culture and Nation that we are. I want to make sure that people understand that our goal in passing this amendment is one and one goal only, to eliminate the Washington waste, bureaucracy and mismanagement while continuing to support in a very real way the arts in this country.

Madam President, I oppose the systematic elitism in funding for the arts. I oppose funding of the arcane, the pornographic, the bizarre and just plain silly. I oppose funding to the politically correct crowd and I oppose the partisan funding, as the Senator from Arkansas has so eloquently pointed out. So many of these funds go for partisan reasons. We can do better with our funding process, and we have far too much money going in directions that are not healthy for America.

I know everybody has a different opinion of art. There is a piece of art work in my hometown of Mobile, AL, a metal structure that is now rusted that a distinguished artist in town was recently commenting about. Someone said, "Well, they wanted something that would attract people's attention." And he said, "Well, you can hang a dead horse in the square and that will attract people's attention but it won't be art."

Now, I know there is difference of opinion as to what art is and what we should do about it, but I feel very strongly that we can do better in managing our moneys.

I am very familiar with the situation of the museum in Mobile, which wanted and sought a grant to receive funding to do art work in the foyer of their auditorium. They got the money, but they were told by the NEA that the artist had to be from New York, and by a NEA preselected artist, and she chose some art work on a burlap type of material. It stayed up for a few years and has now been removed and is currently being stored in the basement of the museum.

But again, I suppose that expenditure was counted as an expenditure to Alabama when in fact it was really an expenditure to New York. So I submit to the Members of this body that we can be for the arts, but we must make sure that the moneys we spend are spent wisely on the arts.

As to the National Endowment for the Arts, I say it has had its chance. Year after year after year they have come before this body, and they have faced strong criticism and questions about their mismanagement and poor funding decisions and still nothing has changed. Madam President, I submit that we can do more and that we can do better with this money.

The sad fact is that the National Endowment for the Arts is captive of an artistic elitism complicated by an insider cronyism and political favoritism undermined by mismanagement and wholly without a vision to make a difference for arts in America. In fact, we have learned, as we have studied the numbers, that only 15 percent of the grants, in fiscal year 1997, by the NEA went to new groups; 85 percent of the grants are just the re-funding of the same old art programs which the NEA has funded before.

The Hutchinson-Sessions amendment does more for the arts. It takes the Senate appropriations figure, $1,060,000, which has already been propounded in the bill before us today and it eliminates the Washington bureaucracy and sends all the money down to the people. It expands the money to all the regions and States in this country.

I would like to show you a chart that indicates the mission statement of the NEA. The mission statement clearly states:

> To foster the excellence, diversity and vitality of the arts in the United States, and to broaden public access to the arts.

Madam President, when you have only six cities receiving one-third of the national expenditures, Boston, Chicago, Los Angeles, San Francisco, New York, and Washington, DC, we are not broadening public access to the arts. And when we have one city, New York City, in fiscal year 1997 receiving more money than a total of 29 other States, including my home State of Alabama, something is wrong. The National Endowment for the Arts is not administering these grants fairly, wisely, or effectively.

Madam President, these are not just my figures or some Republican agenda. NBC's "Dateline" with Jane Pauley on July 17, 1997, exposed these very figures. They pointed out just how disproportionate the funding is. They pointed out that the NEA provided a $31,000 grant for a film called "Watermelon Woman" which involved sexually explicit homosexual activities, which was paid for entirely by the American taxpayer.

People say, Well, you don't believe in the first amendment, JEFF. You don't respect freedom of the arts.

I respect the freedom of the arts. I respect the first amendment. I am an attorney, and I believe very deeply in the first amendment, but I must say I don't think the hard-working taxpayers of Alabama, who are getting drastically shortchanged in this funding process, ought to be required to fund things that simply offend their sense of decency and their standards of ethics and faith. It is just not the kind of thing we ought to do, and we have every right as representatives of the people to come before this body and demand that governmental agencies adhere to proper standards and spend their money wisely and effectively. And when they do not, we have every right to abolish those agencies and shift that money in a way which will improve the livelihood of the people.

NBC's "Dateline" talked about the Whitney Museum in New York, which has a $30 million endowment, receiving a $400,000 NEA grant last year. That is nearly as much money as the entire State of Alabama received last year from the National Endowment for the Arts, and I am also offended by Chairman Jane Alexander's suggestion that artistic endeavors only appear in certain select areas of the country.

The distinguished Senator from Montana, Senator BAUCUS, discussed the Shakespeare in the Park festival in his home State of Montana. I would just point out to the Senator, that under this amendment, as we propose it, the State of Montana would receive a $165,000 increase in funding. If Alabama only had 8 or 10 projects approved by the NEA—Montana with less people probably has about the same number—that would be $16,000 additional for each grant recipient in the State of Montana under our amendment. State after State after State shows benefits and funding increased under our proposal. Over 12 or more States receive twice as much funding. States like Michigan, Alabama, Florida, Indiana receive twice as much funding under the Hutchinson-Sessions amendment as under the present NEA formula for distributing grants. This is an outrage, I submit, in the that way we have allowed for this funding formula to continue.

Madam President, our amendment will eliminate unnecessary bureaucratic spending. It eliminates the arcane, pornographic, bizarre, and just plain silly projects that are being funded by the National Endowment for the Arts. It ends the political favoritism that is being uncovered, which clearly shows that we are not spending the money in an effective way.

So this, I submit to the Members of this body, is a very important vote. We have the opportunity today without any increase in taxes, to provide a historic infusion of funds to local artists in every State across this country. It is critical that we send the money to the States where they can wisely and effectively spend it.

Madam President, if the money is sent directly to my home State of Alabama, the Alabama Shakespeare Festival in Montgomery, one of the finest facilities in the world—a facility which Sir Anthony Hopkins referred to as the

finest Shakespeare facility he has ever performed at—would receive more than the $15,000 they received last year from the National Endowment for the Arts.

Madam President, I feel very strongly about this amendment. I salute my colleague from Arkansas, Mr. HUTCHINSON, for the hard work he has put into it, and I am honored to be an original cosponsor of it.

Madam President, I yield the floor.

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

Mr. HELMS. Madam President, may I inquire of the Chair if there is another amendment pending?

Mr. GORTON. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. As manager of the bill, I say to my colleague from North Carolina, I asked both the previous two Senators who spoke, and Senator HUTCHISON who preceded them, not to introduce their block grant amendments because it seemed to me most logical that the proposal of the Senator from North Carolina, which would effectively reflect the House position of abolishing an appropriation for the National Endowment for the Arts, logically ought to go first. So I believe the answer to the Senator's question is a committee amendment is the business and the amendment that the Senator from North Carolina proposes, I think, would be in order.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The first committee amendment is the pending business.

Mr. HELMS. I am sorry, I did not understand the Chair.

The PRESIDING OFFICER. The pending business is the first committee amendment.

Mr. HELMS. That is subject to amendment?

The PRESIDING OFFICER. It is.

Mr. HELMS. I am sorry, I just walked into the Chamber. Is it necessary to set aside that amendment?

The PRESIDING OFFICER. The Senator may either offer an amendment to the first committee amendment, or he may request that all six committee amendments be set aside.

Mr. HELMS. Madam President, Senator ASHCROFT of Missouri is on an airplane at this moment, which I hope is approaching Washington. It has been delayed, but he will be here shortly to offer the amendment on which I desire to speak.

I am honored to cosponsor this amendment, which would eliminate funding for the National Endowment for the Arts. Other Senators will voice their support, I believe, for the Ashcroft-Helms amendment; certainly the distinguished Senator from Oklahoma [Mr. INHOFE], and the senior Senator from Kansas [Mr. BROWNBACK]. In any case, I commend Senator ASHCROFT's willingness to exercise strong leadership on this issue. We will proceed while looking forward to his arrival on the Senate floor.

The other day, JOHN ASHCROFT and I were visiting on this subject, and we were reflecting upon the fact that more than 8 years have passed since an award-winning, blasphemous, and—how to put it—stomach-churning photograph of a crucifix soaked in urine alerted this Senate to the disgusting decision by the National Endowment for the Arts to reward the so-called artist who conceived the concept and submitted it for a grant with a substantial amount of the taxpayers' money.

Along about the same time I came into possession of copies of the so-called, now well-known, Mapplethorpe artistry, which was a homosexual display. I recall bringing that to this floor. The distinguished Senator from West Virginia was sitting right over there, and another Senator was speaking. I don't remember which one. I asked Senator BYRD if he would consider an amendment to outlaw something that I thought was grievously blasphemous, and I thought that he might think so, too. I remember that I showed Senator BYRD the Mapplethorpe photos. I will say that he exclaimed very definitely that he found them repulsive. The bottom line is that he took my amendment and it was accepted on the legislation. That is when the hard feelings developed with certain people who favored not restraining the National Endowment for the Arts.

During the 8 years that have elapsed since that evening that I came and spoke to Senator BYRD, the Senate has learned a very great deal about the way the National Endowment for the Arts conducts its affairs, and, thank the Lord, so have many millions of Americans found out about it across the land. They constitute loud voice to echo exactly what the House of Representatives did the month before last, I believe it was, in cutting off all funding, zeroing the National Endowment for the Arts. For one thing, it is self-evident that many of the beneficiaries of NEA grants are contemptuous of—how to say it—traditional moral standards.

Now, we have stripped the phony veneer from the curiously elitist nature of those people who are self-selected arts experts. I run into them frequently. I hear from some in North Carolina, one in particular—he was born rich, never did a day's work in his life. He spends much of his time writing letters to me complaining about my not caring about the arts. Well, of course I do care about the arts. I have grandchildren who participate, and I think very well, in the arts. But they don't participate in the kind of things that I am talking about here today.

We have stripped, as I say, the phony veneer from those people. Above all, we have learned the lengths that this crowd supporting the National Endowment for the Arts will go, and has been going, in order to preserve their access to millions of dollars of the taxpayers' money.

I am going to get down to the nitty-gritty. It is going to offend some people here and there. Once the true nature of the National Endowment for the Arts became clear, more and more Senators have joined in supporting simple, commonsense measures to ensure that the NEA is operated in a reasonable manner. We have endeavored, sometimes successfully, sometimes not, to put an end to Federal grants, spending the taxpayers' money rewarding obscene or patently offensive work. We have worked to try to make sure that the NEA grants go to institutions rather than to individual artists. At every step, the arts establishment and its defenders in the left wing media—and in Congress, I might add—have vigorously opposed those reasonable reforms, often implying or downright declaring that anybody opposing such Federal grants is ignorant and indifferent to culture and art.

There is a fellow in Massachusetts who used the words, phony baloney, the other day. I am going to borrow those two words from him and apply it to that kind of stand. I suppose this sort of opposition will continue just as long as the Congress allows the National Endowment for the Arts to cater to phony, self-appointed artists who insist on using the American taxpayers' money to finance anything they want to drag up from the sewer and declare to be art.

But enough is surely enough. Millions of Americans have come to the conclusion that the National Endowment for the Arts is beyond salvation as a reasonable Federal agency. The amendment which the Senator from Missouri will a little later on send to the desk proposes to fund the NEA at a deserving level, exactly what it deserves—zero. To put it bluntly, I propose that none of the taxpayers' money be wasted by this agency anymore.

I have done my best to work in good faith with administrators, past and present, of the National Endowment for the Arts. The present administrator, Jane Alexander, is a gracious lady. I like her personally, and I think she means well. But the problem persists: Despite all of the rhetoric, despite all the promises, the National Endowment for the Arts continues to underwrite projects that offend the sensibilities of millions of American taxpayers who resent the NEA's giving the taxpayers' money to self-styled artists whose art comes straight from the gutter and the sewer.

So, this amendment that Senator ASHCROFT and I will formally offer shortly keeps faith with the courageous decision of the House of Representatives to withhold funding from

the National Endowment for the Arts during the House consideration of H.R. 2107, the Interior appropriations bill. The Senate, simply said, ought to do what is right and follow suit.

Following that vote in the House of Representatives, the NEA's supporters did the usual thing. They trotted out their customary absurdities in describing an America without art, an America without culture unless the Senate restores full funding to the NEA. And they did that with violins being played and weeping voices. Baloney. Perhaps the Senate will default on its responsibilities, but it will have to do it after a number of Senators have made clear why the House action with reference to the NEA was entirely justified.

Madam President, Americans watching and hearing this Senate session this afternoon on C-SPAN should be prepared, sooner or later, for another dose of the same old, tired rhetoric about how the survival of arts in America depends upon the NEA—when the truth of the matter is that American arts were thriving long before the agency received its first penny, its first appropriation, back in 1966, and the arts will continue to flourish and flower long after the NEA has disappeared from the radar screen.

In any event, the American people may be forgiven for wondering precisely how do the powers-that-be at the National Endowment for the Arts define—define—American arts and culture. Let's do a little thinking about that. The agency's recent grant to the Whitney Museum may provide a useful clue. On July 15, 1997, the news program "Dateline" NBC reported that the NEA had given a grant of—now get this—$400,000 to the Whitney Museum. As NBC pointed out, the Whitney Museum is the beneficiary already of an unusually large private endowment. Yet the museum is nevertheless deemed by the NEA to be a worthy recipient for Federal taxpayers' dollars.

What exactly is it about the Whitney Museum that makes it so worthy? Certainly, one must hope, not the 1997 biennial exhibition.

The average taxpayer sitting in North Carolina or Idaho, or wherever, will never know anything about this unless the news media tells them or unless they are watching C-SPAN at this moment. But this year's biennial—and this is just an example —this year's biennial featured an exhibit that launched an attack on Santa Claus. The Kansas City Star newspaper reviewed the show and included this observation:

> The myth of Santa propounded by Disney and Hallmark is rendered all but unrecognizable by Paul McCarthy's video installation of a wildly perverted Santa's workshop. The main players, raunchy art-girl elves dressed in skimpy elf tunics and sticky-dirty with chocolate sauce, alternately devote themselves to creating confections and performing lewd acts with stuffed animals, one of them large and animate.

Oh, boy, Madam President, if that is art, then the sewer is a swimming pool. In awarding the show's "booby prize" to Mr. McCarthy, the Wall Street Journal's Deborah Solomon wrote this:

> Reader, I can only hope you're not eating your breakfast when I tell you that his "Santa's Workshop" revolves around the theme of Christmas personalities doing weird things with excrement.

Indeed. And I hope anyone listening to this debate in this audience this afternoon will inquire of the Senators from their States why they approve of a Federal agency that awards $400,000 of the taxpayers' money to the curators of a museum who countenance such an exhibit.

Oh, I can hear it, Madam President. I have been hearing it for over 8 years. "Oh," they say, "such grants of questionable taste are purely isolated incidents." The trouble with that is that the evidence suggests otherwise, because last year, $150,000 of the NEA's funds went to a project by a choreographer named Mark Morris, and he is the very same Mark Morris who once staged a homosexual version of "The Nutcracker Suite," called "The Hard Nut." The taxpayer will be forgiven for wondering whether Mr. Morris' future work will deal with similar material.

I believe we already heard all we want to hear about last year's $31,500 grant for the production of the film "Watermelon Woman," to which two or three Senators have already alluded on this floor this afternoon. This film was made by and about lesbians and featured in the words of the reviewer "the hottest lesbian sex scene ever recorded on celluloid." And this is one of the art projects that the National Endowment for the Arts, Madam President, said we must have in order to preserve art and culture in our society.

Perhaps worst of all, however, is a travesty that emerged from a $25,000 grant to an organization called FC2, a bunch of weirdoes responsible for publishing, among other sickening things, Doug Rice's book entitled "Blood of Mugwump: A Tiresian Tale of Incest."

Oh, boy, what an artistic achievement that is. According to the back cover of the book, the plot, if you can call it a plot, describes "[a] member of a clan of Catholic, gender-shifting vampires [setting] out to discover himself in his sister's body."

Twenty-five thousand dollars of your money, Mr. and Mrs. America, goes so we can keep art flourishing in the United States.

That is not the half of it, Madam President. Suffice it to say that our staff members were—and I am talking about the folks I work for in my office, the finest young people you ever saw—they were just about ready to throw up earlier today after they had glanced through this wretched book's description of incestuous sexual activity, paid for with the taxpayers' money, mind you.

Whether all this garbage is metaphorical or literal or whatever, I don't know, I don't care, and I don't want to know. What I want to know is how long we are going to tolerate the National Endowment for the Arts continuing to fund this kind of garbage. I do know, and I have known this for a long time, and I have said it a thousand times on this floor—and maybe if I live long enough I will say it another thousand times: the American taxpayers should not be forced to pay for stuff like this. But if one opens this book to the copyright page, there it is: The seal of approval from and by the National Endowment for the Arts.

Let me say that again—and I like Jane Alexander, she is a nice lady—but she is not controlling that shop down there. I cannot believe that she is. Let me be clear. I am not calling for censorship. I come from the news business. I made my living that way for most of my life before I came here. But this is not censorship to say we are not going to pay for this kind of mess anymore. I say again what I have said many times, I don't have any problem with some guy going in the men's room and scrawling dirty words on the wall, provided he pays for his own crayons and provided he owns the men's room. Making the taxpayers pay for it is what I object to.

This Doug Rice is entitled to write whatever he pleases. He may try to shock and offend whatever poor souls across America run across his foul literary pretense, but let me reiterate, again and again, the American taxpayers should not be forced to subsidize such sewage as this work.

But you know, Madam President, many Americans believe—and I agree with them—that grants such as these are sufficient reason to end, once and for all, funding for the National Endowment for the Arts. I suspect that the American people would be even more resolute in their opposition to the NEA if they were aware of other practices of the NEA that bring the NEA's legitimacy into question.

To begin with, the American public needs to know about the NEA's practice of carefully rewarding its supporters and past beneficiaries. For example, even the New York Times, liberal as it is, loving the NEA as it does, has reported that 85 percent of this year's recipients have previously fed at the NEA trough.

How have they done it? I will tell you. The NEA does not consider the financial position of its applicants. That would step on some toes, you know. Instead, the NEA continues to hand out money to institutions that have a conspicuous lack of need—they don't need it—for being handed large sums of the taxpayers' money.

Harvard University—now get this, Harvard, which has in its bank accounts an endowment of more than $6

billion—billion with a "b"—$6 billion; nevertheless, it was sent $150,000 by the National Endowment for the Arts. What for? I will quote it to you:

To support augmentation of the Harvard University Art Museum's endowment.

Doesn't that grab you? That just makes me tearful with joy. If you believe that, you will believe anything.

Phillips Academy, one of the most prestigious boarding schools in the country, received $125,000 from the NEA this year.

The University of California at Berkeley received $135,500.

Princeton University, with its total endowment exceeding $2.6 billion that they have already gotten from private sources, nevertheless the good old NEA sent them $20,000 of taxpayers' money. Now, how do you like them apples?

Yale University—I am not going to let them get off the hook—with a total endowment fund of $3.5 billion which it had gotten from private sources, received $100,000 from the NEA for the Yale Repertory Theater for—I want you to guess what for—a celebration of the 100th birthday of a Marxist playwright, Bertolt Brecht.

Boy, I know the people in Shetland Switch will be delighted to hear that their money was sent there. That is exactly what we count on our Federal Government to do.

Additional scrutiny of NEA grants provides countless examples of such financial judgment. For one example, bureaucracy being piled upon bureaucracy. How do they do it? Very simple. The NEA gives grants to the Federal Government itself. That is a neat trick, isn't it? For example, the Federal Facilities Council of the State Department—and I am going to speak to Madeleine Albright about this—will receive from the NEA up to $10,000—now stay with me—up to $10,000 "to support a partnership of Federal agencies convened to identify and advance technologies, processes and management practices that improve the planning, design, construction, operation, and evaluation of Federal facilities and enable more effective utilization of limited resources."

Madeleine, you better come home.

Seriously, Madam President, what does all of this mean? For those of us not fluent in the language of bureaucrats, your guess would be as good as anybody's, but only in Washington would one Federal agency fund another Federal agency for a study on how to increase efficiency.

Finally, there are the so-called planning and stabilization grants for which the NEA spent more than 10 million bucks this year. And what is the purpose of those grants? Mostly for giveaway gambits like the $125,000 grant to Jacob's Pillow Dance Festival, Inc., in Lee, MA, which was given the money not because it needed the money, but they wanted to increase their cash reserve a little bit.

Well, I expect there are some Senators around here who would like to have their cash reserves increased a little bit.

This, to be serious about it, I say to Senators and ladies and gentlemen who may be listening, this is your tax money. And I want to ask you, How's your cash reserve?

But let us be very clear about what the NEA is doing. It is putting your tax dollars—no questions asked—into the bank accounts of artists and institutions for which there is simply no precedent—no precedent—for these handouts.

Even disadvantaged businesses that qualify for low-interest loans from the Government must pay back the money, but not these rich folks. If any of these struggling small businesspeople asked for a cash-direct handout from the Federal Government, they would be laughed off the premises and they would be recommended for a medical examination.

Madam President, I am not going to belabor the subject anymore except for one closing observation. I say this with all seriousness. What does or does not constitute art is not decreed from on high by the National Endowment for the Arts. Art and culture—for better or worse—should remain in the hands of the American people, not bureaucrats. Continued funding of the NEA not only wastes the taxpayers' money on a small contingent of wealthy elitists, it also continues the arrogant assumption that a Government-funded arts establishment must—must—determine what art is fit for public consumption.

I think there is no exaggeration involved in saying that this assumption is contrary to the Founding Fathers' notions of freedom and liberty on which I was taught as a little boy that this Nation was built. In fact, I think that if Jefferson and Franklin and all the rest came around here one of these afternoons, I suspect they would agree with millions of Americans who have so little regard for the entity known as the National Endowment for the Arts.

Thank you, Madam President. I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK

Mr. DEWINE. Madam President, I would like to take a moment to discuss a project of great importance to me and to the people of the State of Ohio. I am referring to funding for the Dayton Aviation Heritage National Historical Park. This project is currently included in the House version of the bill that we are currently debating. I am very hopeful that it will receive full consideration by the conference committee and be included in the final bill that is reported by the conference committee.

Madam President, on October 16, 1992, Congress established the Dayton Aviation Heritage National Historical Park to commemorate the legacy of two Daytonians, Orville and Wilbur Wright and their significant contribution to human history through their pioneering exploration of flight.

Madam President, in an effort to create a single coordinated facility recognizing the Wright Brothers' work in Dayton, in 1994 the National Park Service assumed responsibility for the remains of the brothers' bicycle company. And then 2 years later, in 1996, the Park Service obtained the surrounding property which is known locally as the Hoover block.

Madam President, the Hoover block has been designated as the core site for Federal management of the Dayton Aviation Park and will be the park headquarters and will also be the primary visitor center.

From 1890 to 1895, this very site served as the location of the brothers' print shop, the print shop called Wright & Wright Job Printers, which, by the way, printed the Tattler, a newspaper founded by the famous Daytonian and Ohioan black poet, Paul Laurence Dunbar.

Madam President, timely restoration of these sites is critical to ensure the building will be renovated and open to the public by the year 2003 when Ohio and the rest of the Nation and the world will celebrate the centennial of powered flight.

Trying to meet this deadline, Madam President, I have been working with my colleagues in the Ohio delegation in the House, most notably, Congressman RALPH REGULA, Congressman DAVID HOBSON, and Congressman TONY HALL, working with them to ensure and secure funding for the upcoming fiscal year so that renovations can proceed without delay.

Madam President, I think that this project has national significance. It has significance for my home community, the Miami Valley in Ohio, and the entire State of Ohio. I grew up about 20 miles from where the Wright Brothers really learned to fly and where they did their pioneer work, where they did their studies, and where they prepared to fly.

Madam President, I note the presence on the floor of my good friend from Washington, Senator SLADE GORTON, who is of course the chairman of the appropriations Subcommittee on the Interior. I already have had several conversations with my friend and colleague regarding this particular project. He knows well of my personal interest in the project. I really wish to express to him my appreciation for his willingness to pursue this matter in the conference committee.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. I thank the Senator from Ohio for his eloquent statement. I know how important this project is to Senator DEWINE. As he has stated, we have talked about this project on several occasions over the past 2 months, and I must confess that the Senator's enthusiasm for his project has rubbed off on this Senator. As my colleagues may know, the Senator from Ohio grew up not far from where the Wright Brothers made their dreams of powered flight a reality. It also is no secret that the legacy of the Wright Brothers is very much alive and well in my own State of Washington.

Madam President, I want to assure the Senator from Ohio that he has convinced me of the merits of this effort to restore this important historical landmark in time for the centennial celebration of powered flight less than 6 years from now. I am strongly inclined to support his position in our inevitable conference with the House of Representatives on the subject.

I also urge my friends from Ohio to keep me and the members of my subcommittee informed of his continued efforts and those of the Dayton community as it prepares for the celebration in the year 2003.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. I thank my colleague for his work on this bill and for his commitment to pursue this issue in conference. I appreciate that very, very much. It means a great deal to me and to our community and to our State. I thank him very much.

I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Thank you, Madam President.

NATIONAL ENDOWMENT FOR THE ARTS

Mr. ABRAHAM. Madam President, I rise today to speak about a topic which has been ostensibly discussed this afternoon, namely, the portion of the Interior appropriations bill devoted to the National Endowment for the Arts. It is my plan—and still in the process of being drafted—to offer a slightly different type of an amendment from the ones which have been discussed already. I do not have that amendment here, so I will not be introducing it at this time. I am going to be trying to work with some of the others who have concern about this issue to determine exactly how we might finally present the proposal I am going to discuss here today.

I rise as a Senator who finds himself, and has since he arrived in the Senate, somewhat perplexed as to how we should proceed with regard to funding for the arts. I am an enthusiastic supporter of the arts. I think that it is in the Nation's interest, certainly, to do the most we can with scarce resources to try to encourage young artists, regardless of their specialties, to pursue their interests and their creative skills. And at the same time it is quite clear that the method that has been used recently, at least, has prompted a great deal of controversy and, in my judgment, to a large extent set back the progress with regard to our Nation's artistic activities.

Because what we have had for too long, it seems, is this ongoing debate between whether or not the National Endowment for the Arts is properly funded by the Federal Government or whether it should be eliminated.

What we have is a debate that essentially, on the one hand, argues that taxpayer dollars should not be used to support what many consider to be obscene activities or inappropriate activities, and, on the other hand, we hear from the arts community—and I have certainly heard from a number of individuals representing that community since I have gotten to the Senate—that the efforts on the part of Congress to either limit the funding or to put strings on the funding constitute, if not an explicit form of censorship, certainly an implicit form of censorship.

In addition, I hear in my State a lot of concerns because, as the charts which were here earlier indicate, our State is not getting the sort of revenues and resources to work with as many other states of equivalent size. So there is a frustration both with the inadequacy of the resources which come back to my State of Michigan as well as some concern about whether or not Washington expertise is in the best position to determine which projects in our State should be supported.

In my judgment, the logical solution to all of this is to maintain a national entity which oversees various arts activities and supports those which are worthy of such support but to not have it funded by the taxpayers' dollars. In other words, what we ought to do, in my judgment, is to privatize a national program, an American endowment, if you will, for the arts, one which receives no direct taxpayer support but one which nonetheless can perform some of the national responsibilities that have been outlined by advocates of the existing NEA.

If it were done in that fashion, Madam President, we would be in a position where at a national level determinations could be made as to priority arts programs. Those priorities could be given support, and the support would not necessarily therefore have to come with a lot of strings attached. If performing artists became a priority, individual artists became a priority, a national endowment not supported by taxpayers' dollars would be able to support such efforts.

Today, because of the handcuffs which have been attached in recent appropriations bills, that cannot happen. In short, we can get away from this debate between obscenity on the one hand and censorship on the other and support the arts in a private fashion.

Some have argued this is not feasible, that there is no way to come up with the resources required. But in my judgment that is wrong. Just as a starting point, it is currently the case that over $9 billion a year is expended in support of arts activities across this country. Indeed, a number of the individual arts organizations have larger, substantially larger, annual budgets than the National Endowment for the Arts. Indeed, the amount of money that we currently spend in the NEA on an annual basis—$100 million—is just a fraction of the $9 billion which is annually expended on these types of programs. It is smaller than that expended by the Lincoln Center, by a variety of other very large and well-known arts organizations.

Indeed, I believe, as we have seen by the remarkable outpouring of support from the arts community itself, whether they are famous artists individually or national organizations, corporations who deal in arts and entertainment, it would seem to me that the ability to raise funds for such an independent entity would be rather within our reach.

My plan basically is to privatize the NEA over the next 3 years. In this year's appropriations bill we would, consequently, reduce funding by approximately one-third, although we would make it feasible for the NEA to expend a percentage of its dollars it has to begin a fundraising program to find ways to privatize the entity at the end of the 3-year period. In other words, we would begin the process. It would not be done overnight. It would allow for existing institutions, who are beneficiaries of NEA support, to not find themselves overnight without any support but on notice that in 3 years the support would be coming from a private entity.

In exchange, what I would envision is to spend these dollars, which would be reduced on an annual basis, on other very important national treasures. It is currently the case, for instance, Madam President, that the Star-Spangled Banner, the actual flag that prompted Francis Scott Key to write our Nation's national anthem, is in desperate need of financial support for purposes of preserving that flag.

Ellis Island, the site of the arrival of millions of immigrants to this country—one of the true historical treasures—is in decay and in desperate need of support. The Presidential Papers of many of our Nation's Chief Executives are in a position where the preservation of those documents is at risk.

My amendment will allocate the funds that are being reduced from the NEA to the support of these national

treasures, treasures which I think virtually every Member of Congress could agree deserve support.

If my amendment were to pass this year, my plan would be to follow up with a variety of very specific actions designed to be consistent with the support for a privatized NEA, including a sense-of-the-Senate amendment which I will be offering to specifically express the Senate support for a private ongoing NEA outside of taxpayer support, and other ideas such as a checkoff plan by which taxpayers could direct individual contributions to an independent entity.

The bottom line is this, Madam President, we have to make decisions all the time about priorities. It seems to me in the area of the National Endowment for the Arts, the logical thing is to preserve it in a way that allows it to function in its fullest sense, and to function independently and privately. When I offer my amendment, I will discuss this in greater detail.

In the meantime, I think we have an obligation, whether it is to preserve the Star-Spangled Banner itself, or to renovate Ellis Island so it can be preserved, or to make sure the papers of our Presidents are preserved, we have an obligation to preserve them.

I believe the amendment I will be offering strikes the right balance. My amendment is quite consistent with that offered earlier by Senator HUTCHISON. I have indicated I would support that approach as well, because it does not immediately phase out the support which many of our State and local arts organizations receive. I think my amendment moves us in the right direction because it brings us to a point, in a short period of time, over 3 years, where the National Endowment for the Arts would not have to be here each year trying to justify itself on Capitol Hill, but could operate with unfettered discretion and make its own judgments and eliminate the debate between censorship and obscenity.

The best way to do that is to take the taxpayers out of the picture so they can make independent decisions and not worry about the political debate it finds itself in. Then we can direct the resources which our taxpayers send to Washington to preserve items such as a President's papers, Ellis Island and a variety of other national parks and national institutions in desperate need of support. This would be the most sensible way to approach it.

It is my plan currently to offer an amendment, once it is fully drafted, to that effect.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I have the honor to rise in support of the distinguished chairman's remarks in regard to the proposed allocation of appropriations for the National Endowment for the Arts.

I will presume upon the Senate's time on a relatively quiet afternoon to give just a little background of the measure that is before the Senate today.

Once again we seem to be doing a major disservice to ourselves with the politicization of matters that ought to be as far from politics as ever is possible: the support the Government provides, not expensive but nonetheless critical, for the arts of our Nation.

It would seem that the National Endowment for the Arts is challenged on three fronts: first, whether our Nation even needs Federal funding for the arts, second, that the Endowment should do more to reduce objectionable art, and third, that the current grant apparatus disproportionately funds some regions more than others. If I might, I may be able to shed light on this triumverate.

I was present at the creation of the National Endowment for the Arts which we are debating today, which we debated last year, and which we will debate henceforth how long, who knows.

It was begun in a time of great national agreement on this subject and a rather clearer understanding, if I may say, than we sometimes have now, on the nature of this subject. This all began in the summer of 1961 when the musicians in the Metropolitan Opera Orchestra in New York announced they could not continue under the contract they had with the trustees. They were members of local 802 of the American Federation of Musicians.

Indeed, the prospect confronted us all that the Metropolitan, the Met, as we say in New York, would have to cancel its 1961–62 season. Then some inspired person had the thought, why not ask the newly appointed Secretary of Labor, Arthur J. Goldberg, to arbitrate the dispute? It was a natural thing for him to do; he was Secretary of Labor, this was a labor dispute. He was a great supporter of activities of this kind, a man of huge, varied talent. As an American Jew, he had served in the OSS behind German lines during World War II. He had been very close to the steelworkers. He had helped bring about the merger between the AFL and the CIO, what we now call the AFL–CIO, the American Federation of Labor and the Congress of Industrial Organizations.

His wife Dorothy was a supremely gifted artist. He moved easily in the world of the arts, as well as of business and labor and government. He went on, of course, to be an Associate Justice of the Supreme Court, and then in an act of great self-sacrifice—and he knew it at the time; I was with him at the time—he accepted the demand, if you put it that way, from President Johnson that he leave the Court and go to New York to be the United States permanent representative at the United Nations at a time of cold war crisis. It was his way to do such things and to accept such assignments.

Now, in the life of the things he had done, arbitrating a dispute between, I believe, some 62 musicians and a well-established and attractive, civic-minded charity was not especially challenging, except he found something out. He found, as he put it, "Mrs. August Belmont and Mrs. Lewis W. Douglas, who were the leaders of the trustees, didn't have any money." With the best will in the world, they could not meet the requests that the union was making. They were then making $170 dollars a month. That comes to about $45 a week. That, sir, amounts to about $1 an hour. The minimum wage was twice that, or thereabouts, at that time. They were persons of world standing in the arts, but the arts could not provide them a living. What they were asking for was $268 a month—something like $60 a week, something like $1.50 an hour. With the best view in the world, all that Secretary Goldberg could do was to offer them a $10 a month raise. They made their living teaching and doing other things. They were devoted to music, but they had families, too, and the ordinary interests of persons who live an ordinary life, an ordinary citizen.

What they were caught up with—and I do not want to take the Senate into a long discourse on economics, but it is a matter which comes to this floor in one mode or another almost every day—they were caught up with what came to be known as the cost disease of the personal services. This was a concept worked out by a great American economist, happily still vigorously pursuing his works, William Jay Baumol, then at Princeton University. He and his wife were opera lovers, as it happened, and he, too, noticed about this time that the Metropolitan Opera orchestra always seemed to be about to go on strike—this problem, that problem—and what was the matter here?

His main field in economics is deeply abstract, hugely influential studies of transaction costs and things like that. But he said, well, listen, if I'm an economist, I ought to be able to understand some of this, and he came up with the idea of the cost disease. His colleagues, as is frequently the case in medicine and physics and economics, began to call this Baumol's disease.

It can be very easily explained. The productivity of personal services does not grow, or grows very slowly compared to the productivity generally in the economy. You could put it this way. In 1797, if you wished to perform a Mozart quartet, you needed four persons, four stringed instruments, and 43 minutes. Two centuries go by and to produce that stringed quartet you need four persons, four stringed instruments, and 43 minutes.

If the great Mormon Temple Choir undertook to do a Bach oratory when it

was founded, I believe there are 350 members of that choir, so to do a Bach oratory in 1897, that would take 350 musicians an hour and a half. A century goes by and it still takes 350 persons and an hour and a half. That is called Baumol's disease. If you play the "Minute Waltz" in 50 seconds, you speed up productivity but you do not get quite the same product.

That is why teachers are relatively more expensive than farmers. Farmers have quadrupled and quintupled and quintupled again their productivity, but a first-grade teacher can handle about 18 young 6- or 7-year-olds in 50-minute classes; you can put 190 kids in that class and it would not be the same.

That is why we always have friction in our economy between those activities where we depend very much on the personal services and those which involve the mechanized services or the electronic services—think what we have seen in productivity in computation in the last 20 years.

Secretary Goldberg thought what to do, and I think at this removed place in time it is no indiscretion to say he called me in and said, "PAT, I have no money for these musicians. We have to give them hope," and he said, "Write a portion of my arbitration decision which says it's time the Federal Government gets into the business of helping with the arts."

This is not a new idea. George Washington wrote to a Rev. Joseph Willard, March 22, 1781, and said, "The arts and sciences are essential to the prosperity of the state and to the ornament and happiness of human life. They have a claim to the encouragement of every lover of his country and mankind." It was as clear to George Washington as a matter could be. A few years later—that was in 1781. In 1785, Jefferson wrote to Madison:

> You see, I am an enthusiast on the subject of the arts, but it is an enthusiasm of which I am not ashamed, as its object is to improve the taste of my countrymen to increase their reputation, to reconcile them to the respect of the world, and to procure them its praise.

And so, Mr. President, on that occasion, the arbitration decision was accompanied by a statement urging U.S. support for the performing arts. The New York Times—and forgive my provincialism, as that is where I come from—announced this on the front page, and this was Friday, December 15, 1961:

> Goldberg Urges U.S. To Subsidize Performing Arts. He Asks Business and Labor To Help as He Gives Pay Increase in Met Dispute.

Then it says, "Excerpts from proposals aid for the arts * * *."

Inside, they printed the text of Goldberg's statement urging U.S. support for performing arts.

> Washington, December 14—Following is the text of Secretary of Labor Arthur J. Goldberg's statement on "The State of the Performing Arts," which was included in his findings in the Metropolitan Opera dispute.

The statement begins.

> The financial crisis of the Metropolitan Opera, which raised the prospect that the 1961-62 season might not take place, may prove to have been an event of larger significance in this history of American culture.

And, sir, it has. As the Senator from Vermont and Senators supporting this measure on both sides of the aisle will know, the National Endowment moved in direct sequence from the Goldberg finding to President Kennedy to the White House where President Kennedy established an advisory commission on the arts and humanities. Let's remember that the humanities are still part of this. Earlier, we heard the distinguished Senator from Michigan talking about the public papers of Presidents, which are now being very steadily published and compiled—they had not been, but now they are.

Now, the question is, were we aware that one day we might be on the floor of the U.S. Senate facing charges like that? Sir, I would like to say with considerable vigor—if that is the term—of course, we were. We knew perfectly well that once the Federal Government got into the question of funding for the arts, we would get into the question of what arts to fund. It is not a very complicated sequence. This statement says,

> President Kennedy observed not long ago that the Federal Government "cannot order that culture exist, but the Government can and should provide the climate and the freedom, deeper and wider education, and the intellectual curiosity in which culture flourishes."

And then Secretary Goldberg's prescient finding on the nature of our debate today:

> The issue of Federal support for the arts immediately raises problems. Many persons oppose Federal support on grounds that it will inevitably lead to political interference. This is by no means an argument to be dismissed, and the persons who make it are to be honored for their concern for the freedom of artistic expression. In an age in which a third of the globe languishes under the pathetic banalities of "Socialist realism," let no one suppose that political control of the arts cannot be achieved.

I might say that again.

> In an age in which a third of the globe languishes under the pathetic banalities of "Socialist realism"—

As it was called in the Soviet Union—

> let no one suppose that political control of the arts cannot be achieved.

As we look in that direction in the world right now, we realize that there are limits to such control, and the efforts of Government to control the arts will never, in the end, succeed. I will go back to our statement, sir.

Justice Goldberg said, "The overwhelming evidence is that the free American society has shown deep respect for the artistic integrity of the artist. Every attempt to interfere with that freedom has been met with vigorous opposition, not least from the artistic community * * * Artists are as susceptible to pressure as the next person, but for every artist who capitulates there is another from that unruly band to take his place, which the late Russell Lynes has described as the 'uncaptured, the disrespectful, and the uncomfortable searchers after truth.'"

I don't want to make any special case for work that has no real purpose, save to shock—although some work that shocks in one generation is revered in the next. We would be very wrong to forget that. Artists have always sort of known it. In 1939, one of the great American painters, John Sloan, one of those who organized the armory show of 1913 in Manhattan, which brought the postimpressionist French painters from the School of Paris to Manhattan, and it shocked everybody. Picasso was shocking, as were the others. But in very short order they came to be revered. It took a generation, but it did happen.

Sloan once said, in 1939—and he had a particular kind of humor in this regard, also a kind of clairvoyance. He said:

> It would be good to have a Ministry of Fine Art. Then we would know where the enemy is.

Indeed, I can recall an occasion when this subject was raised in a hearing before the Finance Committee and some witness, someone out of patience, said, "All right, Senator, what would you do to have the Government encourage the arts?" I said, "Well, offhand, the only thing I can think to do would be for the Government to forbid them." That always has a lively effect, as we can look around the history of the world and the history of the 20th century and find out. But what we are doing here is supporting the arts.

The National Endowment began as an effort to provide a living wage for musicians in a situation where, through no fault of their own, through the workings of the economic system—I mean the laws of economics, of productivity change, they needed public support, and it has flourished. It was a very interesting fact that after President Kennedy's assassination, the first thing this body did was to propose that a cultural center that was being discussed for the arts be named the John F. Kennedy Center for the Performing Arts. That was a center that needed public support to make it possible in the present day. Those resources were there, and that activity has become part of the life of our Capital.

Nonetheless it remains the case, inevitably it is the case, that there are places where particularly intensive activities in the arts occur—our third proposition at issue today. It is somehow in the nature of creative work that it tends to concentrate in one

place and bring people to it. It is the normal experience of the arts, particularly large and expensive activities which involve musicians and performers and composers, as well as audiences. New York has been such a place since the beginning.

It has been argued that it cannot be fair that one third of NEA grants go to six cities—with New York at the top. As it was when we examined this subject three decades ago, New York is the center of the arts—as it is of the visual arts, as it is of publishing—as it has been from the time we started our Nation with New York as the Capital.

The purpose of culture is not to serve the Nation, but we speak proudly of our role in the last two centuries. And to the extent that we do, we speak of the things that have happened, to an extraordinary degree, things that have happened in the city of New York by people who came from all over the country—and the world—to that center of creative activity.

Some propose that we take money away from the city of New York and distribute it elsewhere. This idea is very different. The idea is to strike at the artistic activities and expressions which are found at the center of the Nation's art world. There is something foreboding here. Do we break up the country into its competing parts? Do we want to go back to a time when those who had kept? They did not share—to reach out and bring to a place that did not have things they might need in health, in education, in standards of relations between labor and management—in a sense of sharing of common culture, of diffusing, and enriching of culture. I do hope not.

It all began, sir—and I will conclude on this thought—at a time of promise in our Nation—great threat and danger, good God, yes, but promise, good spirits and creativity in Government. The Government thought through a problem that the public had, that the polity had, that the culture had, and came up with some answers. They have proven themselves powerfully important in what has now been almost two generations. And I would hope that this moment of unparalleled prosperity, with the United States—we wrote of a third of the world "languishing under the banalities of Socialist realism," all that gone, and could we not relax a little bit and do what the chairman and able committee wishes done and get on with the other matters of State. The arts will be there whether we wish them or not and, in the main, I think we do wish that they will be.

Mr. President, I thank the Chair, I thank my colleagues for their courtesy. May I ask unanimous consent, sir, that the text of Secretary Goldberg's decision on the arts be printed in the RECORD at this point.

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

[From the New York Times, Dec. 15, 1961]

TEXT OF GOLDBERG'S STATEMENT URGING U.S. SUPPORT FOR PERFORMING ARTS

WASHINGTON, Dec. 14.—Following is the text of Secretary of Labor Arthur J. Goldberg's statement on "The State of the Performing Arts," which was included in his findings in the Metropolitan Opera dispute:

The financial crisis of the Metropolitan Opera, which raised the prospect that the 1961-62 season might not take place, may prove to have been an event of larger significance in this history of American culture.

In an age when we must accustom ourselves to a welter of untoward and unwelcome events, there are yet some things that are unthinkable. It was unthinkable that the Metropolitan Opera season should not take place. Yet suddenly that very prospect faced us. Few events could have produced so instant a national awareness that an artistic calamity of the first order was in the offing. The insistent, repeated warning of artists, critics and benefactors as to the financial crisis of the performing arts in America were confirmed in the most dramatic possible way.

It is worth emphasizing that this situation was confirmed rather than discovered. The problem has been well known to and thoroughly expounded by any number of persons in responsible positions in cultural affairs. This, happily, is a positive factor in the present situation.

We are fortunate in having the present crisis brought vividly to the national attention without any actual loss—the Metropolitan Opera season is taking place. We are doubly fortunate that, confronted with the need to act, we have at hand an abundance of thoughtful, constructive proposals for action. This is perhaps notably true in Congress where legislators such as Senators William Fulbright and Jacob K. Javits, and Representatives Frank Thompson Jr., of New Jersey and John Lindsay of New York have devoted a great deal of attention to this important public issue.

PROBLEM OUTLINED

It is not necessary to review the full range of information which is available on the financial condition of the performing arts, nor to recapitulate the many valuable proposals that have been put forth to improve that situation.

One central fact, however, is worth emphasizing. The problems of the performing arts in America today are not the problems of decline. They are the problems of growth: A growth so rapid, so tumultuous, so eventful as to be almost universally described as an explosion. The specifics have no parallel in history.

America today has some 5,000 community theatres—more theatres than radio and television stations. There are better than 500 opera-producing groups—seven times as many as fifteen years ago. Symphony orchestras now total 1,100—twice as many as only ten years ago, and fifty in the suburbs of Los Angeles alone.

Resources such as these for the consumption of artistic creation do not of themselves insure creativity, but one could hardly hope for a climate more receptive to the creative artist. An era of unequaled achievement may well be upon us.

LONDON STATEMENT NOTED

Recently the times Literary Supplement observed from England, "If neither a Bach nor a Michelangelo has as yet appeared in Detroit, a splendid mass of evidence has been assembled to point the way. Not only is the talent visible in ever-increasing quantity but the facilities for using it exist as nowhere else."

The American artistic scene today is alive and vibrant. At the same time, some of the foremost institutions of American culture are in grave difficulty. The Metropolitan Opera is not alone, Other opera companies, and a number of our leading symphonies, share in a substantially similar financial plight. The artists, moreover, are generally underpaid. The details may differ, but the general condition is the same. The problem, of course, is money. The individual benefactors and patrons just aren't there, as they once were. Just as importantly, as we become more and more a cultural democracy, it becomes less and less appropriate for our major cultural institutions to depend on the generosity of a very few of the very wealthy. That is a time that has passed, and the fact is evident.

HOW TO SAVE IT

The question before the nation, then, is how to restore the financial viability of these institutions and to promote the welfare of the artists upon whom these institutions in the final analysis do and must depend.

It is, to repeat, unthinkable that they should disappear at the very moment when they have achieved an unprecedented significance to the American people as a whole. They are a heritage of the past. They are equally an earnest for the future: they stand as our expectation of the quality of the American creative artists whose works they will perform.

The answer to this question is evident enough. We must come to accept the arts as a new community responsibility. The arts must assume their place alongside the already accepted responsibilities for health, education and welfare. Part of this new responsibility must fall to the Federal Government, for precisely the reasons that the nation has given it a role in similar undertakings.

The issue of Federal support for the arts immediately raises problems. Many persons oppose Federal support on grounds that it will inevitably lead to political interference. This is by no means an argument to be dismissed, and the persons who make it are to be honored for their concern for the freedom of artistic expression. In an age in which a third of the globe languishes under the pathetic banalities of "Socialist realism," let no one suppose that political control of the arts cannot be achieved.

RESPECT FOR INTEGRITY

The overwhelming evidence, however, is that the free American society has shown a deep respect for the artistic integrity of the artist. Every attempt to interfere with that freedom has been met with vigorous opposition, not least from the artistic community. Artists are as susceptible to pressure as the next person, but for every artist who capitulates there is another to take his place from the unruly band which Russell Lynes has described as "the uncaptured, the disrespectful, and the uncomfortable searchers after truth."

The answer to the danger of political interference, then, is not to deny that it exists, but rather to be prepared to resist it. A vigorous, thriving artistic community, close to and supported by a large portion of the public, need not fear attempts at interference.

Let our writers and composers and performers give as good as they get. Indeed, when have they done otherwise? The situation is no different from that of academic freedom in our colleges and universities: it is by defending their rights that our faculties strengthen them. This is ever the condition of freedom.

This is not an area in which we are without experience or precedent. For many years the arts have received support from public funds in many different forms. Much experience supports the general proposition that public support is most successful when it represents only a portion of the total funds involved. The principle of matching grants has clearly proved its validity, and should be the basic principle of any Federal participation in support of the arts. The variations of this arrangement are many, and perhaps as a general rule it may be said that the more levels of government, institutions and individuals involved, the more likely it is that the artists themselves will retain control over their work.

6-POINT PARTNERSHIP

The principle of diversity of support for the arts should accompany the principle of community responsibility. Our objective should be the establishment of a six-point partnership that will provide a stable, continuing basis of financial support for an artistic community that will at once be responsive to the needs and wishes of the public and at the same time free to pursue its own creative interests

I

The principal source of financial support for the arts must come, in the future as in the present, from the public. Art is consumed in many forms, by a vast and widely diverse audience. The essence of a democratic culture is that the artistic community should have a large audience, drawn from all areas of the society, which returns value for value in a direct and equal relationship.

While, if anything, greater provision should be made for special children's concerts and below-cost performances for special groups, the general musical and theatrical public must expect to provide a greater portion of the costs of the performing arts, through devices such as season subscriptions and special associations for the support of particular activities.

II

The patrons and benefactors of the arts have a continuing and vital role to play. It is inevitable that in an age or esthetic creativity the interests and tastes of many of the best artists will run ahead of, or even counter to, the general standards of the time. Here the support of the enlightened patron can have the most profound and fruitful consequences.

Similarly, there are many artistic forms of the past, of which opera is but one; which are simply too expensive to be supported entirely by ticket sales or general purchases. In such instances the support of art patrons makes it possible to preserve for the present and future many of the most profound creative achievements of the past.

III

Private corporations must increasingly expand their support of community activities to include support for the arts. One of the hallmarks of American free enterprise is the remarkable extent to which business has voluntarily contributed to educational, charitable and health activities in localities throughout the nation.

In line with the wider recognition of community responsibility for the arts, business corporations would do well to consider allocating, as a matter of course, a portion of their total contributions to these activities. The Texaco-sponsored broadcasts of the Metropolitan Opera, the television dramas sponsored by the Westinghouse Corporation and the makers of Hallmark Cards, and the institutional advertisements of the Container Corporation of America, using modern art, are good illustrations of another and important form of support which business corporations can give to the arts.

IV

The American labor movement has a responsibility for support of the arts similar to that of American business. This has been recognized to some degree, as in the contributions several unions have made to support children's and other special concerts, but on the whole the community contributions of American trade unions have been directed for activities similar to those which have attracted business support. A parallel adjustment is in order.

V

Local governments, and to a lesser extent, state governments are already providing a considerable measure of support for the arts, in line with the clearly manifested interest of the American people in expanding the artistic resources available to the general public.

The support of art museums is already a general practice. Everyone accepts the fact that it is appropriate for a state or local government to provide housing and custodial support to such museums. The question naturally arises why this support should not be provided for our operas and symphonies as well. Of course, the main source of public support for the arts should continue to arise from the spontaneous, direct desire of local and state governments to provide for the needs of their own communities. This is an ancient tradition in the arts, one on which we might draw more extensively.

For example, the practice of universities of making provisions for artists-in-residence might profitably be adopted by municipalities—one recalls that Bach for the last quarter century of his life was the Municipal Cantor of Leipzig.

VI

The Federal Government has from its beginning provided a measure of support for the arts, and there can be little question that this support must now be increased. This can and should be done in a variety of ways.

The Federal Government may be a direct consumer of the arts, by commissioning sculpture, painting, and awarding musical scholarships.

One of the most important, and perhaps most proper role of the Federal Government is to help state and local governments and private nonprofit groups build and maintain the physical plants required by the arts. Theaters, concert halls, galleries are the precondition of many of the arts. Public support at all levels of government in the area of helping provide and maintain art facilities poses the minimum danger of Government interference with the arts themselves. A splendid example of such cooperation is the Lincoln Center for the Performing Arts, where city, state and Federal funds are all being combined to provide a magnificent cultural center in New York.

The concentration of public support upon providing physical facilities for the arts should not preclude programs of direct Federal subsidy for theatrical and musical performances and similar activities. However, Federal subsidies of this kind should be granted on a matching basis, with much the larger proportion of funds provided by private sources, or by other levels of government.

LARGER DUTY SEEN

The Government has a larger responsibility toward the arts than simply to help support them. President Kennedy observed not long ago that the Federal Government "cannot order that culture exists, but the Government can and should provide the climate of freedom, deeper and wider education, and the intellectual curiosity in which culture flourishes."

Our concern with the condition of the arts in America must ultimately and principally take the form of concern for the position of the artists. Our principal interest is that the American artist should remain a free man. Without freedom there is no art or life worth having. That there are more comfortable conditions than freedom has no bearing on the central fact.

However, we may also legitimately concern ourselves with the status of the artist in our society. An artist may be well fed and free at the same time. That an artist is honored and recognized need not mean he is any the less independent. America has a long way to go before our musicians, performers and creative artists are accorded and creative artists are accorded the dignity and honor to which their contribution to American life entitles them.

The President and Mrs. Kennedy have greatly advanced this cause by the inclusion of artist and writers such as Pablo Casals and Robert Frost in a number of the most solemn as well as the more festive occasions of state. The proposal of the President to consider the establishment of a national honors system clearly presents an important area in which Artistic achievement can be further recognized by the nation.

ADVISORY COUNCIL SOUGHT

The most important immediate step which the Federal Government may take is the establishment of a Federal advisory council on the arts. Such a measure has been introduced by Representative Frank Thompson Jr. and others, and is now before the Congress.

The functions of such a council would be fourfold:

(1) Recommend ways to maintain and increase the cultural resources of the United States.

(2) Propose methods to encourage private initiative in the arts;

(3) Cooperate with local, state, and Federal departments and agencies to foster artistic and cultural endeavors and the use of the arts both nationally and internationally in the best interest of our country, and

(4) Strive to stimulate greater appreciation of the arts within the councils of Government.

If it were composed in large part of working artists and artistic directors, it could have important influence on Government policies which have a direct bearing on the resources available for support of the arts. A number of proposals which have come to my attention are perhaps worth noting as instances of a very considerable body of ideas that are worthy of consideration.

TAXES DISCUSSED

Mr. John D. Rockefeller 3d, has pointed out that under present Federal income tax

law, a deduction for charitable contributions by an individual is limited to 20 per cent of his adjusted income, or in the case of gifts to churches, operating schools and colleges, and certain types of hospitals and medical research organizations, the limitation is 30 per cent instead of 20 per cent.

Congressman Keogh of New York has introduced legislation which would extend this added 10 per cent to include libraries and museums of history, art or science.

Senator Javits has proposed to add symphony orchestras or operas to this list.

Mr. Rockefeller has suggested it be further extended to include ballet, repertory drama and community arts centers. While it is not possible to forecast with any precision just how much extra support would be forthcoming as a result of such a measure, it is obviously a matter worthy of the attention of an advisory council on the arts.

Another tax matter which merits careful consideration is the problem of artists generally, and performing artists in particular, whose earnings are frequently concentrated in a comparatively short period of years, with the result that they are taxed at a much heavier rate than if their earnings were spread over a normal life employment span.

This is a hardship to the artists, it is also a burden to the managers of theatrical and musical enterprises, who frequently are required to make up some of the difference by paying stars higher salaries than would be required if their tax payments were lower.

Recently forty nations met in Rome to negotiate an international convention for the protection of performers, producers of phonograms and broadcasting organizations. Parts of this convention concern the protection of performing rights, which correspond for performing artists to the copyright protection now enjoyed by authors. These rights do not exist for performers under United States law. It would seem quite in order for this subject to be given careful consideration.

ROYALTY PROPOSAL GIVEN

Mr. Robert Dowling has recently brought up to date a proposal introduced in Congress in 1958 by Senator Fulbright which would make it possible for the Federal Government to collect royalties on music which is now in the public domain, or becomes so in the future.

Senator Fulbright's bill provided that "all music now or hereafter in the public domain shall be the property of the United States as copyright owner, and be used by it for the benefit of the public."

Although this is a new concept in the United States, the arrangement has been followed for years in other countries, notably France. Senator Fulbright proposed that an administrative body be established which would be authorized to administer the licensing of such music, utilizing the proceeds for the support of the arts, much in the manner of a private foundation devoted to this work.

The sums involved in such an arrangement, while not enormous, are nonetheless considerable. Mr. Dowling has estimated that the total potential income from royalties on music in the public domain, calculated on the same percentage basis as copyrighted material would be $6,520,000 annually, distributed as follows:

Popular music (records)	$1,100,000
Sheet music (classical)	3,420,000
Classical music (records)	2,000,000

At this period when the entire body of copyright law is under study, it would seem appropriate to give further attention to this attractive proposal for supporting the arts.

I commend these observations on the state of the arts to the earnest consideration of an advisory council on the arts, when constituted, to the Administration, the Congress, state and local governments and the public.

CONCLUSION

In concluding this award it would not, I feel, be inappropriate to make special note of the needs of the Metropolitan Opera itself. For years this grand institution had had the unfailing support of a great and varied number of New Yorkers and persons from all parts of the country.

The generosity—the magnanimity—of such splendid benefactors as Mrs. August Belmont and Mrs. Lewis W. Douglas is matched only by the devotion of the everyday opera lovers who fill and overflow the galleries. Try as, everyone does, the deficit is always there, and somehow ever more difficult to meet.

An outpouring of support for this great cultural resource would be an inspiring affirmation of the public interest in the preservation and encouragement of cultural activities throughout the nation. It would be an altogether appropriate, and most influential, beginning of an era of widely based and sustained support for the arts in America.

In his message of greetings and good wishes on the occasion of the opening of the 1961–62 Metropolitan Opera season in October, the President said: "The entire nation rejoices that this distinguished cultural asset in our national life will again be bringing the splendid performances of great artists to millions of American homes. For the music of the Metropolitan reaches far beyond the hearing of those gathered in this great hall. It endures, captured and held by human memory, a pleasure and inspiration for years."

For myself, I would wish to thank all those of both parties who have helped me with courtesy and assistance, and who have suffered this entire undertaking with a deep and fully mutual devotion to the art of the opera. I am fully confident that relations between the orchestra and the opera association can reach the level of confidence and cooperation that this shared devotion entirely warrants.

The difficulties of the present have proved the needed stimulus for a large and promising future. We look to the Met with high expectations for ever greater achievement in the musical arts.

Mr. JEFFORDS. First of all, Mr. President, I want to thank the Senator from New York, the ranking member of the Finance Committee, for his excellent presentation on the history of the Endowment. I think it is important that we dwell on that a while, or just a few minutes here anyway, because we have heard some rather severe condemnations of a program of which, in the final analysis, after review, would show has been very helpful in enhancing the availability of the arts in this Nation. I find it problematic that even though we seem to have eliminated all of the policies that have caused problems as part of the 1996 appropriations act, to some, they still seem to exist. Let me talk a little bit about that, after again, thanking the Senator most sincerely for that historical presentation, which was most helpful.

Back in 1996, when we passed the appropriations legislation, we placed prohibitions on policies that have caused difficulty with the Senator of North Carolina and others, on the utilization of funds from the Endowment. First, we placed a prohibition on subgranting. Now, subgranting was a practice in which the Endowment itself would give a grant to an institution and that institution would in turn make grants for other things or to individual performances. An example of such a practice was raised with regard to a program mentioned by the Senator from North Carolina with respect to the Whitney Museum. It is illustrative because it points out how far we would have to go in order to satisfy those who are concerned about painting the Endowment out to be making inappropriate grants—some time, some place, somewhere, some performance will be what someone might call pornographic. Most often, it is that subgrant or another activity, separately funded, which was not issued by the Endowment, like the example of a performance at the Whitney Museum. The Whitney Museum did get a grant for its building, but not for the performance that the Senator from North Carolina mentioned. Now, the Senator from North Carolina would say that because a performance was done in that building, which had received a grant for its construction, it should have been prevented because it, in his determination, would have been offensive. That is an unrealistic standard and I would hate to think that of the programs that we fund in the United States, that we would go to the extent of censoring what people there participated in or what happens in our places of enjoyment, museums, or any place else.

Another thing we did to prevent some of the types of programming which had become offensive was to prevent seasonal support. Institutions must now specify what specific projects they will support with the funds they receive from the Endowment. And also, even more important from the perspective of trying to prevent the kinds of performances which the Senator from North Carolina was pointing out, was to prevent grants to individuals.

In the House when the issue of some of these grants was raised, Jane Alexander, the Chairman of the NEA—and I will make this a part of the RECORD—pointed out in the House definitively that they were not grants made by the NEA. Still, those are the ones that are used to condemn the NEA.

I ask unanimous consent that a copy of the letter from Jane Alexander to Representatives in the House be printed in the RECORD.

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

NATIONAL ENDOWMENT FOR THE ARTS,
Washington, DC, June 24, 1997.

DEAR REPRESENTATIVE: In recent days you may have received a videotape produced and

distributed by the American Family Association (AFA) which contains film scenes that the AFA says were supported by the National Endowment for the Arts during my administration of the agency.

The video apparently contains scenes from five specifically named films. I want you to know that the NEA did not in any way pay for the production of three of the films entitled Access Denied, Coconut/Cane & Cutlass and Bloodsisters. The fourth film entitled Nitrate Kisses was supported by means of an NEA production grant to an individual filmmaker during the previous administration before I became Chairman.

NEA did support production during my chairmanship of the fifth film, The Watermelon Woman, by means of a grant to Woman Make Movies/Cheryl Dunye in 1995. For your information, The Watermelon Woman has been reviewed very favorably, and is showing to audiences in theaters and film festivals throughout the country.

You should know that the NEA has not made any grants to individual filmmakers since 1996, because grants to most individual artists were abolished by Congress that year. We also have not supported the general distribution of films since 1996, because those grants fall into the category of general seasonal operating support, which Congress also abolished in 1996.

The AFA also criticized the agency for supporting Fiction Collective 2 (FC-2), a small publisher at the University of Illinois, which has introduced some of our newest minority writers of quality to the American public. Over the years, FC-2 has sustained a commitment to intellectual challenge, and some of America's greatest writers have supported it.

As you may know, the AFA has a long record of distributing purposefully inaccurate information about the NEA. The fact remains that this agency has made more than 112,000 grants over the course of its thirty-two year history, and fewer than forty of them have caused some people some problems. That's a record of excellence that any private business or government agency would envy.

I hope you find this information helpful, and hope that I can count on your support.

Sincerely;

JANE ALEXANDER, *Chairman.*

Mr. JEFFORDS. Mr. President, I want to point out that we should not get off track of what the Senator from New York has attempted to do, and that is to remember why the Endowment was created and what is the importance of the arts, what is the importance of the Federal support for the arts.

We have a huge Nation, a wonderful Nation, and a nation with diverse cultures with wonderful things occurring from one coast to the other, from the North to the South. The arts help us understand life and the NEA help the Nation learn about the good things that are going on in the arts across the country—the good things that will help us understand where we are going, what our society is about, and what we need to do to be happy, to have a good life, and to be able to solve our problems.

The purpose of the Endowment is to allow those areas—those things that are successful, those things that appeal to us, that make our culture rich—our art—to be shared from State to State. The Federal role encourages this exchange and supports all States by collecting, disseminating, and allowing programs to tour all around the country, making sure that programs which are important and essential to education or to assist those in depressed areas that are impoverished are shared.

So I will be offering an amendment which will say that at this time in our Nation we recognize that we have two very serious problems, and they are very closely related:

Education. We know that we must improve education in our Nation. It is essential that we do that. It is essential because in this day and age competition from international economies has created real problems for us, with jobs in the thousands leaving this country and going to others, threatening our Nation's ability to compete right now. For instance, we have 190,000 jobs in the technology area that are going unfilled because we do not have the young people or older people with the skills necessary to perform those jobs. We had one CEO who testified before the Labor Committee who said that he had seriously considered, like others are moving centers of their manufacturing from this Nation to other nations because people there have the skills, they are ready, they are available, and the cost is cheaper.

So one of the purposes and an important function of the Endowment is to try to see how we can help solve that problem of education.

In addition to that, we also have the problem of welfare reform. Some of the greatest problems this Nation faces are in the inner cities with our poor, with violence, and with the incredible problems that people face trying to find direction and meaning in their lives. What can you do? How can you escape from the pressures that you have in the ghettos?

I have traveled around this Nation and have observed education and welfare programs. Many of these are programs that were enhanced by programs put on or financed in part by the National Endowment for the Arts. Let me give you a few of those to demonstrate what I mean.

The thing I would like to talk about first is education; and learning. It is so much easier to understand and to learn if what you are doing is relevant, or in some way relevant, to your life, making it a little bit better, or giving you a way to make it a little bit better.

Let me go through some of the programs that I have witnessed. These were funded by the Endowment, or assisted by the Endowment. Let me take you to the inner city of New York City in the Hispanic area where some of the highest crime rates and some of the highest poverty rates exist.

I visited Ballet Hispanico on a weekend morning where young kids of 5, 6, 7, or 8 years old received instruction in ballet, participating with all the enthusiasm that young kids can have, knowing that when they left there they were going to have just a little bit more hope. This program provided a way that they could see a window through all of the chaos that they live in to be able to take them to a better life.

A more dramatic exhibition of that, also in New York City was a program that I visited—again, a program which was supported by the Endowment—where I saw these young children all drawing kind of frantically on the papers that were in front of them. I asked, "What is going on here?" The teacher informed me that each one of those children had lost a member of their family, by violence, that they had blocked off reality, and they could not communicate about what happened to them. But by drawing and by artistic expression they could let their feelings out, they could break through, there was hope for those children that their life could break away from this poverty and violence which they were in.

Also, one only has to go to listen to the Harlem Boys Choir or so many other demonstrations of what has gone on with the individuals who have participated in NEA funded activities. I also went out to San Diego, CA, and went to a school out there which was an incredible one, a music magnet school, but again in one of the depressed areas of San Diego. This was a middle school of seventh, eighth, and ninth grades, where they had an orchestra, a band, a jazz band. Almost everyone in that school had arrived there in the seventh grade without any skills in music. When I listened to them play, it brought tears to my eyes. To think that these young people when they came to that school did not see a purpose in life but perhaps now saw that there could be some beauty in their lives. I could go right here to Washington, DC. In Washington, DC, we have a school that is under the tutelage of the Kennedy Center. I was amazed with that one. I found they had artists there who were teaching, but they weren't teaching art. They were teaching math, and they were teaching science. How were they doing that? I went, and I watched these young kids making little pianos. They were learning how to measure them, construct them, and learning their geometry. Then they learned how the sounds came out differently from the little thing they hit it with. They could make music. They understood why the frequencies were different and why the frequencies were made different by the lengths of those strings.

What happened to those students? The math rates went up in that school—not so much for the reading scores, but the math rate went climbing upward.

So we know that using the arts, there are ways in which we can break through to things which are interesting and relevant—music as well as the performing arts and the graphic arts.

So we have a way to realize improvement here. So that is why my amendment would say that what we need in this country is to identify each of these programs all throughout the country and to let other people know in other States what programs are working, what are the ones that break through to those young kids who had suffered from violence and loss in their families. Which ones broke through to help? Is there further evidence of how this could work?

Statistics based on College Board figures, the organization that performs the SATs, show a difference between those students who participated in music and the arts as compared with students who did not. They found there was a dramatic difference. With those who had 4 or more years in music or art, verbal SAT scores went up almost 60 points and math SAT scores went up over 40 points. To a young person who is hoping to break out of poverty, to not get caught on welfare, the thought that by participating in music and art, the window of opportunity could be enlarged and the doors of college or university could be opened wide to them gives you an idea of what can happen if we structure the NEA better so that it identifies, helps fund and allows us to share throughout this broad Nation of ours those successful programs.

I have done a rough analysis and summary of just a few of the successful kinds of programs that we have like this in this country. They are very different. Some use the arts secondarily. Some in different ways teach math or science. Roughly 1 percent of our schools are good; 1 percent are doing the job; 1 percent of our students are getting that kind of education that we need. Ninety-nine percent need to learn from somebody, somewhere, or somehow how they can improve their results. The way they can do it is by being able to know where those programs are, who has them, so that they can identify and look at them and replicate them.

I think the Endowment, by helping identify, perhaps in cooperation and coordination with the States and the Department of Education, can make those programs available for others to see and to utilize.

One of the advantages of this great Nation is that we have people who are innovative, who can design and find ways to solve these problems. The disadvantage we have over foreign nations is that of replication, getting the people who are in charge of the programs, who are trying to design these things well to become aware of successful programs that already exist.

Let me give you an example of how we differ from other nations, and we have to analyze it as to whether we should be looking at this problem and see if we can correct it. I think we should. We have a program in the area of work force improvement called TECH PREP. It is in combination with the secondary schools and junior colleges or community colleges, and how they can work together and bring some of the courses down into the high school and to pull the students up to the level where when they graduate they will have the ability to get those jobs that I was talking about those $30-, $40-, $50-an-hour jobs paying $100,000 or $90,000 that are available in this Nation.

Malaysia came over and took one look at our program, TECH PREP, and said this is a great idea. Look how well it is working. They went back and overnight Malaysia adopted our TECH PREP program. We are still at 1 percent. About 1 percent of the schools in this country have the TECH PREP linkage with other higher educational institutions.

Those are just examples of why it is necessary for us to have programs and methodology to be able to share those great things which are occurring throughout the Nation so that they can be available to all. Those things will not be readily located or identified or provided unless we have some way to collect, to identify, to evaluate, and to let others know about them. I believe the Endowment could help us immeasurably in that area.

Mr. President, I have gone on longer than I wanted to. I suppose I will be back tomorrow when we take this up. I hope that my colleagues will share some other examples of NEA-funded programs that demonstrate the advantage of a Federal system which tries to enhance the arts and our culture, enhances enrichment and educational activities as well as to show what positive results can be achieved by giving young people, at an early age, an interest in learning. The NEA has been successful in these areas.

Mr. President, I yield the floor.

Mr. ENZI. Mr. President, I want to make some comments about funding the arts, and I rise in strong support of the amendment offered earlier today by my friend and colleague from Arkansas, Mr. HUTCHINSON. I commend him for taking such an active role in the issue. It is an issue that people have very strong and very divergent feelings about. It is that divergence of opinion that brings me to the floor to support this amendment.

In the House, it is my understanding that there is a majority in favor of eliminating funding. We will be voting on that, too. Senator HUTCHINSON is offering an alternative. He has done a lot of research on funding equity to meet the purpose of arts, of getting it out as divergent as possible across the United States, and we have not been doing that with equity.

During the course of this debate we have heard example after example of successful and valuable local projects. We hear about Shakespeare in the Park and we hear about traveling museums, we hear about folk festivals and chamber music, and visiting artists. These are very worthwhile programs, and they yank at the rural heartstrings of both liberals and conservatives alike, but the survival of those activities is not the subject of this amendment. In fact, this amendment would strengthen those programs.

The variety of approaches today alone for funding the arts shows that what we are doing has some major flaws, and there is a saying that if you keep on doing what you have always been doing, you are going to wind up with what you have, or less.

Everyone in this Chamber is familiar with the past trouble surrounding funding for the national endowments. There are too many examples of poor judgment in the granting process, too many examples of taxpayers' money wasted on projects with absolutely no redeeming social or cultural value. There are also those who argue that art is subjective, that Congress should refrain from limiting expenditures in order to foster freedom of expression.

This is not a debate about censorship. It is a debate about spending the people's money. It is a debate about who gets to make the decisions. It is a debate about who can most encourage art participation and who should make those decisions.

Is there any reason why national panels are more qualified to fund art than State or local panels? If the strongest justification for continued arts funding is the value of local programs, then we should recognize that and strengthen what works, eliminating what does not.

Last week the Senate took a historic step in the right direction when we voted to return K through 12 education spending decisions to the local school boards. That vote indicates a frustration we all feel with the abrogation of local decisionmaking authority, with the dissolution of American democracy. Programming decisions, on programs such as education and the arts, must be subject to local sensitivities and needs. Federal bureaucrats have no accountability to people because nobody lives at the Federal level. People live at the local level, people learn at the local level, and people appreciate and produce art at the local level. Even the Smithsonian, National Gallery, and the Kennedy Center produce and display collections of local art. So if we are going to fund our cultural resources with taxpayers' dollars, then let us give the taxpayers the opportunity and the responsibility to do it right.

In my hometown of Gillette, for example, where I served as mayor for 8 years, we are particularly fond of Camplex—the Campbell County Arts and Activities Center. Representatives from all over northeastern Wyoming take advantage of the performances and exhibits offered at Camplex, and many of those productions are made possible using Wyoming Arts Council support to leverage additional matching funds from local, State, and national sources. In fact, they leverage the resource about 10 to 1. That is local participation, local approval, and local decisionmaking.

I understand the importance of arts and humanities funding in places like Wyoming. I know about the distances between small towns that would never get to participate in the arts if it were not for some funding that helps to get it to them over those distances.

Seeing the arts encourages the talent that lives there. It brings out the talent of the kids, and we do have some very talented kids. Every Senator in this Chamber could point to some successes in their States. There is some misconception out there that conservatives do not appreciate the value of the arts and humanities in our society, but that is not an accurate view. This conservative Senator believes there is a place for arts funding, but that place is not in Washington. This is about an equal chance throughout the United States for equal funding in the arts.

I congratulate the Senator from Arkansas for his middle of the road approach, and I yield the floor.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I rise in support of the Helms amendment to the Interior appropriations bill. The Helms amendment, which abolishes the National Endowment for the Arts, is the only fiscally responsible approach to the funding of the arts by the Federal Government.

The Federal Government truly has to be downsized and more limited. Some on the Senate floor today have argued, and rightfully so, that the National Endowment for the Arts would function much better as a private endowment funded with private dollars, and I agree. We cannot let the Federal Government continue growing unabated, swallowing up the private function of our society as it grows. We have been given stewardship over the public purse, and we cannot abdicate that responsibility just to placate some of the special interests in Washington. We cannot continue wasting taxpayer dollars on the National Endowment for the Arts.

NEA funding in this appropriations bill is over $100 million. I support the arts, but the simple truth is our Federal Government is broke. We simply cannot afford to keep on funding art when we are in this type of fiscal condition and when we have other programs that do struggle which we should be funding.

Before we vote on this issue, I simply ask my colleagues to consider a simple question. If your family was broke, if they were in a tough financial circumstances, if they were looking at an enormous mortgage on their house, enormous debt that they have, would they be out buying art? The simple answer to that is no, they would not.

We are in a similar situation here. We are still struggling to get the budget balanced, and we are going to get there. But once we balance it, we are still over $5 trillion in debt. That is how big the mortgage is on the country.

We are talking about a program that I just do not think can justify itself, given the financial conditions that we are in and given the role of a limited and focused Government. I do think we ought to support the arts, and that should be done privately. That can occur and should occur. But when we are in this type of fiscal condition, funding art is clearly not an essential. Subsidizing artistic endeavors, inspiring artists is a worthwhile project but not for the Federal Government. The House has seen the wisdom to abolish this Government program. We should have the wisdom to do the same.

In considering this amendment, there are a lot of things that it seems to me the Federal Government could do without—a smaller, better focused Federal Government, a more limited Federal Government—and have a better Federal Government at the end of the day. Here is one clear example. It is one we do not need. It is one we have had extended debate about. It is not as if this is a new topic coming up. It is time to do it, and that is why I am supporting this amendment.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EXCEPTED COMMITTEE AMENDMENT BEGINNING ON PAGE 96, LINE 12 THROUGH PAGE 97, LINE 8

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Senate proceed now to the committee amendment on page 96.

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

The amendment is as follows:

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $83,300,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $16,760,000, to remain available until expended, to the National Endowment for the Arts: Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

AMENDMENT NO. 1188

(Purpose: To eliminate funding for programs and activities carried out by the National Endowment for the Arts)

Mr. ASHCROFT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. ASHCROFT], for himself, Mr. BROWNBACK, and Mr. SESSIONS, proposes an amendment numbered 1188 to the committee amendment beginning on page 96, line 12 through page 97, line 8.

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

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

The amendment is as follows:

Beginning on page 96, strike line 14 and all that follows through page 97, line 8.

Mr. ASHCROFT. Mr. President, I want to thank Senator HELMS from North Carolina for having participated and spoken in advance about this amendment. This amendment relates to the funding of the National Endowment for the Arts. It's a means whereby arts are subsidized by the Federal Government, where the citizens of this country are asked to participate in funding a variety of things which are designated as art or as worthy of being supported by the Government. I appreciate the leadership of Senator HELMS in this matter. I thank him for his outstanding remarks which he has made earlier today.

On the tomb of English architect Sir Christopher Wren, there is an inscription which reads, "If you would see his monuments, look around you." Each day I am moved by the beauty of the monuments of this historic city, monuments to Washington, to Jefferson, to Lincoln. They are emblematic of what is great in the art and architecture history of the United States. For years we will stand looking at these monuments as testaments to our faith. Further, they serve to remind us of the central role that artistic and scholarly expression can and should play in our lives.

It is within this context that we must determine what involvement, if any, the Federal Government should have in the arts. It is my belief that arts and humanities funding is primarily a matter for private and local initiatives. There are, however, some areas that do merit Federal assistance. For example, the Smithsonian plays an important part in transmitting the cultural heritage of Americans from one generation to the next. We appreciate the fact that we can learn about what has happened in America by visiting the Smithsonian Institution museums. I think they are of great value.

Conversely, a number of federally funded programs, from, one, for instance, labeled "A Theater History of Women Who Dressed as Men," to projects representing various manifestations of political correctness, are a waste of our taxpayers' resources.

Begun in 1965 as part of President Lyndon Johnson's Great Society Program, the National Endowment for the Arts was supposed to raise the level of artistic excellence and promote a wide variety of art. The agency's budget reached a high of $176 million just 5 years ago, in 1992, and it is slated to receive $99.5 million in fiscal year 1997. Although the NEA has funded some worthwhile programs around the Nation, it has managed to create an unbroken record of special favors and embarrassments. Year after year, the NEA has doled out money to shock artists who produce obscene, antifamily, antireligious, so-called works. I will not say they are works of art. Nonetheless, President Clinton has continued his efforts to secure tax dollars for the NEA, requesting $136 million for the agency in his proposed funding for fiscal year 1998.

Since the beginning of my tenure as a U.S. Senator, I have opposed Federal funding for the National Endowment for the Arts. I believe that Congress has no constitutional authority or valid role to play in funding the NEA. For example, during the 104th Congress, I offered, though unsuccessfully, an amendment in the Senate Labor and Human Resources Committee to reduce authorization levels for the NEA by 50 percent.

On July 15 the House passed legislation eliminating, this year, funding for the National Endowment for the Arts. However, on July 22 our Senate colleagues in the Senate Appropriations Committee took a different approach from the House by providing $100.06 million in funding for the NEA for fiscal year 1998. This reversed a trend of declining amounts from 1992, and sends the dollar amounts back up again. I was disappointed by this action. That is why I am here today. I am here today to attempt to persuade my colleagues to end funding for the National Endowment for the Arts.

There are numbers of reasons why we should end funding for the National Endowment for the Arts. Earlier today, Senator HELMS eloquently discussed one of those reasons, that the NEA has consistently funded art that is antifamily, morally objectionable, and obscene. There has been much debate on this point, and this debate, I am sure, will continue. I would like now to discuss some of the other reasons why we should stop funding the NEA.

In a time when we are paying the highest taxes in the history of the United States, why should we continue funding the National Endowment for the Arts? I think our priorities should be to balance the Federal budget as quickly as possible and deliver deep across-the-board tax relief to the American people. Another public gift to the NEA bureaucrats would be a slap in the face of millions of taxpayers who deserve tax relief but were told this year we just don't have enough resources to be able to accord you the relief you deserve. Frankly, that is an inadequate response to individuals while we are funding a variety of art projects which qualify on the basis of their political correctness; art projects which would undermine the very things that parents are trying to teach their children about the values that have made this Nation great.

Second, Congress should not be in the business of making direct subsidies to free speech. I really question whether it is the proper role of the Federal Government to directly subsidize free speech as we do through the National Endowment for the Arts.

Government subsidies, even with the best of intentions, are dangerous because they skew the market. They tend to allocate resources to something that would not be or could not be supported on its own. And they skew the market toward whatever the Government grantmakers prefer. It says that we think a certain kind of art is best and we will pay for that kind of art but we won't pay for other kinds of art. It seems to me, to have the Federal Government as a giant art critic, trying to say that one kind of art is superior to another, one kind of speech is superior to another, one set of values is superior to another, is not something that a free nation would want to encourage.

National Endowment for the Arts grants placed the stamp of official U.S. Government approval on funded art. This gives the Endowment enormous power to dictate what is regarded as art and what is not. Frankly, I believe they have made serious mistakes in the past, suggesting, of things that were nothing more than offensive, obscene material, that they were in fact art.

The Los Angeles Times critic Jan Breslauer demonstrates that the NEA's subsidization of certain viewpoints poses great problems. The Los Angeles Times critic writes:

> [T]he endowment has quietly pursued qualities rooted in identity politics—a kind of separatism that emphasizes racial, sexual and cultural difference above all else. The art world's version of affirmative action, these policies . . . have had a profoundly corrosive effect on the American arts. . . .

Here is a critic, accustomed to evaluating art, saying that the National Endowment for the Arts and its subsidies have had a profoundly corrosive effect on the American arts. All too frequently, Government programs, even well-intentioned ones, have a reverse effect, an unintended consequence, an unanticipated impact. And that is what we have here. Critics, understanding, aware, in tune with what is happening in the art world, say that what we are doing with $100 million of taxpayers' money is having a "profoundly corrosive effect on the American arts."

Here is how the Los Angeles Times critic says it is happening:

> . . . pigeonholing artists and pressuring them to produce work that satisfies a politically correct agenda rather than their best creative instincts.

What the critic has really talked about here is that, instead of creating to express himself or herself, the artist ends up trying to create to express or impress Government.

When you have a sale of what the communication is and a subsidy that reinforces the fact that someone is willing to sell their idea and to distort their idea for purposes of selling it, that is nothing more than a prostitution of the arts. It changes arts from their purity—from purity to pandering. It panders after the bureaucracy and has, according to this well-known critic, "a profoundly corrosive effect on the American arts."

Despite Endowment claims that Federal funding permits underprivileged individuals to gain access to the arts, it is important to look at what actually happens. The NEA grants offer little more than a subsidy to the well-to-do. One-fifth of the direct NEA grants go to multimillion-dollar arts organizations, $1 out of every $5 goes to the multimillion-dollar art organizations.

Harvard University political scientist Edward C. Banfield has noted that the "art public is now, as it has always been, overwhelmingly middle and upper middle class and above average in income—relatively prosperous people who would probably enjoy art about as much in the absence of the subsidies." The poor and the middle class thus benefit less from public art subsidies than do the museum- and symphony-going upper middle class.

Economist David Sawers of Great Britain argues that "those who finance the subsidies through taxes are likely to be different from and poorer than those who benefit from the subsidies." In fact, the $99.5 million that funds the NEA also represents the entire annual tax burden for over 436,000 working-class American families. To say to nearly half a million American families, everything you have as an annual

tax burden will be taken and spent to subsidize art, or so-called art, or politically correct expression which has been distorted by the bureaucrats that have demanded that things be politically correct, is an affront to hard-working American families. I think we either ought to spend the money far more wisely or, preferably, we ought to say to those families, we will not tax you so we can demand and elicit from an art community politically correct statements in which they do not necessarily believe but for which they will seek to alter their art in order to get the Federal funding.

In short, the Government should not pick and choose among different points of view and value systems. Garth Brooks' fans pay their own way, while the NEA canvasses the Nation for politically correct "art" that needs a transfusion from the Treasury.

If country music folks can spend their own money to enjoy the art they enjoy, I don't know why those who would patronize the ballet or the symphony or would somehow want to induce the support of politically correct art can't support their own version of what they enjoy in the field of art or performance. It is bad public policy to have these direct Federal subsidies of free expression.

Third, Congress had no constitutional authority to create or fund the NEA.

Although funding for the NEA is small in comparison to the overall budget, elimination of this agency sends the message that Congress is taking seriously its obligation to restrict the Federal Government's actions to the limited role envisioned by the Framers of the Constitution. Nowhere in the Constitution is there any grant of authority that could reasonably be construed to include promotion of the arts.

There has been a little debate about this. I would like to point out that during the Constitutional Convention in Philadelphia in 1787, delegate Charles Pinckney introduced a motion calling for the Federal Government to subsidize the arts in the United States. Although the Founding Fathers were cultured men who knew firsthand of various European systems for public arts patronage, they overwhelmingly rejected Pinckney's suggestion because of their belief in limited, constitutional government. Accordingly, nowhere in its list of the powers enumerated and delegated to the Federal Government does the Constitution specify a power to subsidize the arts. It was considered and overwhelmingly rejected by the founders.

Fourth, the arts receive funding from a variety of other sources, and they really don't need the NEA money. The arts in America have traditionally been funded by the private sector. Up until the creation of the National Endowment for the Arts in the mid-1960s, the arts flourished in this country. As a matter of fact, from my perspective, I don't think we have had a superior development of arts in America with Federal subsidies or Federal funding. And, if we can believe the criticism of federally funded art as being art which has been distorted in order to follow the dollars of the Federal bureaucrats, insincere art that comes as a result of an enticement to be politically correct and doesn't really represent the expression of the artist, it can't, by definition, be art which would be as sound in quality as art which would have emanated from the conviction of one to convey what one believed.

As a matter of fact, if one was to compare the art generated prior to the NEA to art that has come after NEA, I don't think it would be any problem to see we have had great art throughout the history of the United States and worthy art for our consideration and our heritage in the absence of the subsidy of the Federal Government.

The growth of private sector charitable giving in recent years has rendered the NEA funding relatively insignificant to the arts community. Private funding of the arts has been rising consistently since 1965. It is estimated that individuals alone will donate nearly $1 billion to the arts and humanities this year. That is the estimate of the House Committee on Education and the Workforce, Subcommittee on Oversight and Investigations.

Overall giving to the arts in 1996 totaled almost $10 billion, up from $6.5 billion in 1991, dwarfing the NEA's Federal subsidy. This 40-percent increase in private giving occurred during the same period that the NEA budget was reduced by 40 percent from approximately $170 million to $99.5 million. Thus, as conservatives had predicted, cutting the Federal NEA subsidy coincided with increased private support for the arts and culture.

Let me make a point here. When the Government tries to elicit politically correct art through the NEA, it distorts what happens in the artistic community. It distorts it in the favor of a few who would gain a majority in Government. When the private marketplace supports art based on the quality of the art, I believe that is a superior way to do it, and I believe it is superior for art. It is a way of promoting the arts through the private sector and the marketplace which doesn't have the pernicious impact of promoting art which is not for art sake or not for communication sake, but is for the purpose of attracting from the bureaucrats a Federal subsidy.

So not only is it better to have increasing funding coming from the private sector, in terms of providing adequate resources for the arts, but it provides the validity of which and the integrity of which I believe is much more to be desired.

Let me give you an example. National Endowment for the Arts funding is just a drop in the bucket compared to giving to the arts by private citizens. In 1996, the Metropolitan Opera of New York received a $390,000 grant from the Endowment. That is a Federal subsidy of $390,000. That amounted to less than three-tenths of 1 percent of the opera's annual income of $133 million, and it amounts to less than the ticket revenue of a single sold-out performance.

State and local governments outspend the NEA, and their funding of the arts has been increasing. The arts are a healthy industry, if you would call it such in this country. Employment and earnings of artists are rising. Art attendance is up in virtually every category, and the educational level of artists is rising, too. Ticket receipts for arts are rising.

The National Endowment for the Arts is not operating in an efficient and effective manner. Let me just indicate to you we have a lot of waste in this program. There is a lot of overhead. There is a lot of ineffective spending here. The NEA is not subject, for example, to the Chief Financial Officers Act, the Government Corporations Control Act, or other strict accounting standards. The NEA has not been subject to any outside reviews of its management or accounting procedures. And—listen to this—the NEA has an unusually high administrative cost for a Government agency which now approaches 20 percent.

We talked about whether or not the Endowment's budget would carry funding to common, average people, wage earners. Twenty percent of it goes just to fund the salaries of bureaucrats in Washington, DC, who make the demand that politically correct art be produced by artists who would otherwise paint or otherwise provide other artistic work.

We earlier learned that 20 percent of the budget goes to multimillion-dollar art agencies. So you have 20 percent that goes to the multimillion-dollar art agencies, another 20 percent that goes to the bureaucrats here in Washington, DC, and almost half the budget so far is in categories that clearly aren't going to benefit people, even if the nature of the art produced was valid and had the integrity that art ought to have. Then you have art critics saying that the remaining 60 percent is used to distort what would otherwise be produced in the marketplace.

The National Endowment for the Arts recently wasted millions of dollars of taxpayers' money on a failed computer upgrade. And according to the NEA's own inspector general, a large percentage of grantees fail to document properly their use of Federal funds. So even when they send money out under the agenda of the bureaucracy and there are requirements there

be documentation for the utilization of the funds, the NEA's own enforcement office, the inspector general, says, "Well, a large percentage of the people never really explain adequately how they use the resource."

The NEA is not operating in accordance with congressional intent. According to its mission statement, the NEA is to foster the excellence, diversity, and vitality of arts in the United States and to broaden public access to the arts.

One-third of direct NEA grant funds go to six large cities. One-third of all the funds find their way to New York, Boston, San Francisco, Chicago, Los Angeles, and Washington, DC. The rest of the country is left holding the bag, having made these other locations substantial beneficiaries of the tax resources of America.

Those six cities really leave much of the country without. One-third of the congressional districts fail to get any direct NEA funding. We have 435 districts. We have a lot of folks. So 140 districts, basically, get nothing. And, there is a large disparity in the amount of funding in districts that do receive funding. One-fifth of the direct NEA grants go to multimillion-dollar arts organizations. I already said that.

Moreover, the NEA continues to fund objectionable art, continues to do so despite the attempts by Congress to limit such funding.

I support and I appreciate the arts. Anybody who spent as much time with his mother standing behind him breathing down his neck as he sat on the piano bench and she counted the music and insisted on practicing has developed some appreciation for the arts. I don't play any of them well, but I manage to play three or four instruments. I have had the privilege of cutting a couple records and had a few people record songs I have written myself, but I never expected the Federal Government to come and subsidize what I do. Even the singing Senators don't want a subsidy for what we do. Of course, no one, not even the National Endowment, would construe what we do as art.

But I support the arts and I know that arts enrich our lives and make us better citizens, arts that are created and developed by individuals on the basis of their own sense of communication and not as a source of chasing Federal funding.

I believe we are challenged by the creative efforts and the talents of artists. Sometimes art doesn't have to be magnificent in order to be challenging or inspiring. I have seen inspiring art by children. I have seen inspiring art by those who are less fortunate than most of us, by those who are handicapped, because it represented some sincere expression from them as individuals. That art can teach us, it can help us, it can shape us, and it can challenge us.

No doubt, the abundance and variety of artistic expression in America plays a significant role in shaping our culture. My position in regard to eliminating the NEA should not be interpreted as a repudiation of the arts. It should be interpreted as a means of supporting the arts.

It must be clear that Congress should act pursuant only to its constitutional authority and not simply when Members of this body believe that it is a good idea for Congress to support something. Amidst all the rhetoric and all of the accusation lies a central salient fact: that the U.S. Government is a profoundly poor patron of the arts, it is a poor judge of beauty and it is an even poorer judge of inspiration. If we had at our disposal all the money in the world, it would not change this reality.

Our resources should not be devoted toward subsidizing one kind of speech or expression over another, toward saying your sense of creativity is superior, your idea is superior to another. Rather, we should allow as many of those resources to remain in the hands of those who have earned them. When we have sought to elicit artistic achievement by governmental subsidy, according to some of the very best critics, we have distorted and profoundly impaired the ability of artists to operate. They have called our impact a corrosive impact on what would otherwise be art of greater integrity.

With that in mind, I thank Senator HELMS for his eloquent statement and his joining me in this amendment which would allow the Senate to join the House in declining to fund the National Endowment for the Arts.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I have listened with great interest to the debate this afternoon, hearing interesting comments by the senior Senator from New York who, as he said, was present at the creation of the National Endowment, hearing now this eloquent and well-reasoned attack on the National Endowment by the junior Senator from Missouri, I find myself compelled to make a few comments from my own observation that I think will be a little different from some that we have heard.

The Senator from Missouri talks about distorting the arts by virtue of Federal involvement and Federal subsidization. I can only say that is not what happens in my State. The main impact of the National Endowment for the Arts in the State of Utah has been to spread the arts; that is, make them available in areas in rural Utah and in poorer school districts where they would not be available otherwise.

I find no distortion of the arts when a Federal grant goes to support the establishment of string quartets playing Bach and Beethoven and Mozart in areas where the people would not of themselves be able to sustain that kind of musical organization coming into their community. I don't think it is a distortion of good art to have this kind of spreading effect take place in the rural areas of our country.

The Senator from Missouri makes the point that the vast amount of funding for the arts does, indeed, come from the private sector and that the amount of Federal contribution is so small as to be almost negligible, and he uses as his example the Metropolitan Opera.

I would be happy to stipulate that if the National Endowment for the Arts went away, the Metropolitan Opera clearly would not. The Metropolitan Opera has the ability and the visibility to raise the money necessary to stay viable if the NEA were to disappear.

But I stand here as a supporter of the NEA not because I love the Metropolitan Opera. I have been to a few performances. I think it is fine. I would go to more if I had the opportunity to be in New York more often. It is the Utah opera I am concerned about and, yes, the Utah opera would probably survive without support from the National Endowment for the Arts, but the fundraising efforts of those who put on and produce the Utah opera would be hampered.

The National Endowment for the Arts is something like a "Good Housekeeping Seal of Approval" put on a local effort which allows the people who are running that local effort to then go out and do their fundraising and say, "You see what we have here is really a class operation. It's something worthy of your support, worthy of your private contributions. Look. It's good enough that the National Endowment for the Arts has put their seal of approval on it."

There are organizations in Utah that compete heavily for that seal of approval, not because they are involved in any distortion of what they are doing for purpose of seeking a Federal grant.

The Utah Shakespearian Festival, for example, is not going to rewrite Shakespeare's plays just in an effort to get a Federal grant. But if they can get just enough seed money out of the National Endowment for the Arts that says to the people of southern Utah, "The Utah Shakespearian Festival has arrived, the Utah Shakespearian Festival is a first-class operation important enough to come to the attention of the National Endowment for the Arts," they can then take that statement, along with what little amount of money that came along with it, and redouble their fundraising efforts to make sure that the Utah Shakespearian Festival will thrive.

If I may, for just a moment, talk about the Utah Shakespearian Festival. It started as almost a class

project at the College of Southern Utah in Cedar City for something to do during the summer. The founder of the festival would probably be a little more grandiose in his description of what he was getting started. This was roughly 30 years ago. It has grown to be one of the top five Shakespearian festivals in the country. People come from all over the country to attend it. And we have a marvelous, marvelous cultural experience in southern Utah as a result of its existence.

Do they need money from the National Endowment for the Arts to survive? No, they do not. But they compete for the money as often as possible even though they are now a multimillion-dollar operation because they want the seal of approval that comes with the recognition by a centrally located Government agency that says, "You are quality. You have reached the point where you justify our kind of concern."

So those who are involved in the Shakespearian festival are grateful to me for speaking out in their behalf on behalf of the NEA. They are not seeking to distort what they do. They are not, as I say, rewriting Shakespeare's plays so some bureaucrat will love them. They are simply seeking the credibility that comes with association with the National Endowment for the Arts.

I have talked to school districts around the State of Utah. In every case, they have the same story to tell. "If we can just get a few hundred dollars that has the NEA seal connected with it attached to our program, we can then raise far more easily the local money that we need."

No, the Utah Opera will not disappear. The Utah Shakespearian Festival will not disappear. The Utah Symphony will not disappear. Ballet West will not disappear. These are the leading arts organizations in Utah. But the school music programs will be hurt. The orchestras—they are not even big enough to be orchestras. The school musical activities that go on throughout rural Utah will be hurt if the NEA disappears. I think that is something to be concerned about.

The Senator from Missouri says, well, the art in this country was just as good before the NEA as it has been afterward. I will not dispute that. I do not think the NEA has funded the creation of a new Beethoven or a new Michelangelo or a new Shakespeare. But it has made it possible for people to enjoy the productions of the old Michelangelo and Beethoven and Shakespeare in places where they had not had that opportunity previously.

Of course, in my State there is a long history of public funding for the arts. This is, as people perhaps are beginning to get tired of being reminded, the sesquicentennial of the arrival of the Mormon pioneers in Salt Lake Valley; 150 years ago this group trekked across the plains, came in to found what is now the State of Utah. And there has been a great deal of national publicity about that, a great deal of discussion about the difficulties and hardships that they went through.

In the context of this debate, I point out that within weeks after their arrival in the Salt Lake Valley, which was about as inhospitable a place as they could possibly have arrived, they put on a production of the "Merchant of Venice." In their total poverty, having walked across the plains, now exhausted, faced with the possibility of starvation because they were not sure they could get their crops in in time to get any kind of a harvest before the winter set in, in a hostile environment where no crops had ever been grown before, they turned their attention to put on a production of the "Merchant of Venice"—public support for the arts.

You say, "Oh, that was all private money." Well, that is true. They did not have any Federal money. They did not have any money at all. And I am sure it was not the most wonderful production of the "Merchant of Venice" that has ever been put on. But they focused on the renewing, enriching circumstance of the arts. Brigham Young, when he arrived in the valley, planted his cane in the ground and said, "Here we will build a temple to our God," establishing his first priority, which was worship in the manner that they saw fit. That is why they went there, because they were prevented from worshiping the way they saw fit when they had been in the United States. And so they went to leave the United States. When they started out for that part of the world it was part of Mexico.

But the temple was 40 years in the building. Long before the temple was built, they had built the Salt Lake Theater. And they were having plays. They were supporting the arts with public funds.

We recently passed a tax increase in Salt Lake County for one purpose, and one purpose only, to support the arts—public funding going for arts support. The Utah Symphony probably would not survive without that tax increase. And there was a recognition that what the Utah Symphony does for the school children of Utah, what the Utah Symphony does for the cultural atmosphere of the entire State of Utah, the concerts they give all up and down the State that are attended free by schoolchildren and others is worth public funding for the arts.

That is a precedent that I think we cannot lose sight of when we are having this debate here on the floor and saying, "The public has no business funding the arts. Let the private people take care of it."

The public has an enormous stake in seeing to it that the arts flourish in our society, that if we ever get to the point where our schoolchildren have no appreciation for Shakespeare, have no sense of excitement when they hear the "Ode to Joy" from the last movement of Beethoven's 9th Symphony, because they have never heard it before—oh, if they live in a major metropolitan area they will hear it, if they live within the sound of public radio, which some of our colleagues in the House want to destroy as well, they may hear it—but there is nothing quite like hearing it live in your own rural community, maybe badly played, put on by the local folk, and only a few hundred dollars from the National Endowment for the Arts that made it possible, that started the ball rolling, but essential, vital, important to the lives of all of us.

The public, as a whole, has a stake in seeing that the arts flourish. Those who would cancel any kind of Federal participation in the arts will be sending a powerful message that the public in the United States wants to turn its back on any kind of public involvement in disseminating the impact of the arts throughout our society.

So, Mr. President, with all due respect to my colleagues for whom I have great personal affection who are on the other side of this issue, I make it clear that I stand for funding for the National Endowment for the Arts.

Out of that general statement, let me make some specific comments about the debate we are having.

Is the National Endowment for the Arts the perfect vehicle for this funding activity that I have just defended? Probably not. There are always improvements that can be made in the bureaucracy.

Has the National Endowment for the Arts funded art with which I am disappointed? Absolutely. There is no question that the sense of outrage that has been raised on the floor of this House and the other over the years about some things that have been funded by money from the Federal Government is a legitimate sense of outrage.

Unfortunately, we have ourselves in the circumstance where if you are for the arts you almost have to stand up for this appropriations, in the way the public perceives it. And if you think that there is a problem, you almost have to be with Senator HELMS and opposing everything. I would hope we could get away from that. And I know there are a lot of amendments on the floor.

Senator HUTCHISON from Texas has one that I am almost tempted to vote for, maybe with some tweaking I might be able to vote for it. I wish we could be in the atmosphere where we started out with the amendment of the Senator from Texas and said, "OK, this is a description of where we want to be. Now let's try to work from here towards solution."

But unfortunately, the matter has been so polarized you almost have to

pick a side and stand on that side and say, "Any movement away from this side opens me up to misinterpretation," any movement away from a stand for the full amount approved by the subcommittee that Senator GORTON chairs, and on which I serve, is a demonstration you are not in favor of the public support for the arts; or, on the other side, any movement away from total elimination is a demonstration that you are in favor of filthy art. I do not think either of those extremes is accurate in the legislative situation in which we find ourselves.

I would hope that in this Congress we would pass the bill as it came out of the subcommittee—I voted for it in the subcommittee and support it strongly on the floor—and then move toward a more reasoned or, if you will, less emotional analysis of what should be the future of funding for the arts, what should be the restructuring of the National Endowment for the Arts.

Could we perhaps combine the National Endowment for the Arts and the National Endowment for the Humanities in a single endowment, overseeing both activities, and see if we can't achieve some efficiencies in administration, that some of the same administrative functions could take place to support both activities, and do that in a much less emotionally charged atmosphere that seems to surround this debate?

For that reason, I will support the amendment by the chairman of the full committee, Senator STEVENS, that says once this is all over in this appropriations bill, Congress should hold some hearings on this issue and see where we really ought to go.

But in this emotionally charged atmosphere that we find ourselves, I find that those kinds of conversations get lost in the rhetoric and you have to chose either one side or the other. The highly polarized atmosphere of this debate is, I think, unfortunate.

But in that atmosphere I have made my choice, true to the traditions of the State that I represent, going back 150 years. I have decided to support public funding for the recognition that it is the spreading of the arts throughout all of society that is the great benefit of the arts.

It is not for the elite, who sit in the concert hall and listen to the Metropolitan Opera, to say, "That is a magnificent operatic experience"; it is for the people in the small towns of Utah, who sing those operatic arias, usually rather badly, but are nonetheless inspired by the experience of coming in contact with that which the Metropolitan Opera itself helps preserve for the Nation as a whole.

Would I like to have more money for my State out of the National Endowment? Of course. What politician would not, but not at the expense of dismantling the great artistic organizations that are at the core of the spreading of art throughout our society as a whole.

So I look forward to the passage of Senator STEVENS' amendment, for the coming of some kind of hearings for the examination of the particulars of how we deal with this. But I repeat again, in the polarization that has occurred here where you have to ultimately say you are on one side or the other, I have chosen the side that I have been on. And I wish to make that clear.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I was particularly moved by the remarks of the Senator from Utah and decided I would come to the floor at this time and add my own thoughts, which are in support of the funding for the National Endowment for the Arts.

Mr. President, support for the arts and the humanities, in my judgment, characterizes a civil society. It establishes in many respects that Nation's place in history. We read so much about wars and politicians, but I find that the search for the arts is what really leaves the strongest impression about a Nation's contribution to mankind.

Throughout our Nation's history, the arts have held a very valued place in our country. I listened earlier to our good friends and colleagues speak, and I went over to my reception room and lifted this volume entitled "The Art in the United States Capitol." Would it not be hypocrisy for those who feel so inclined to no longer help the communities have their own arts, would it not be somewhat hypocritical for us, since we live in and work in this collection of buildings, amidst one of the greatest collections of art in the world, and we are so proud that we put this book out?

Let me read the preface. It is 1976, the year of our bicentennial. 94th Congress of the United States, concurrent resolution.

Resolved by the House of Representatives, the Senate concurring, That there be printed with black and white and color illustrations as a House document, a volume entitled "Art in the United States Capitol," as prepared under the direction of the Architect of the Capitol; and that there be printed 36,400 additional copies of such document, of which 10,300 will be for the use of the Senate, 22,100 copies will be used for the House of Representatives, and 4,000 copies for the use of the Architect of the Capitol.

It is a beautiful volume, Mr. President. I urge those who enjoy, as I do, these magnificent paintings in this great institution to get a copy, if we can find it for them, and place it in their reception room. As the visitors come from all across my State, and indeed from other States, this is the volume which they pick up and go through with great pride. I am astonished we would enjoy what we have and at the same time not try to take the proper steps to provide for the rest of the country a comparable enjoyment.

As my distinguished colleague said, while we may not have, thus far, with the NEA created a Michelangelo, perhaps we have instilled in men to study his works. I often take time to go through our galleries and museums all across this country to enjoy the great contributions of those in our Nation who have placed in history this Nation's contribution to the arts.

I feel it would be a sad contradiction were Members of Congress to turn their back on funding for the arts at the same time we work among this marvelous collection of art and buildings, some of the most priceless pieces of art work in the country and enjoyed by millions of visitors every day to the Capitol of the United States.

The Rules Committee, of which I am a member, has oversight responsibility for these buildings and the works of art proudly displayed. We have a curator, a very knowledgeable individual with whom I have had many, many, enjoyable conversations. Each day our own collection is checked. Often it has to be refurbished. The Capitol Building itself is one of the finest examples of 19th-century neoclassical architecture, and it is noted in the hallways and throughout some 540 rooms of the Capitol that there are over 677 works of art, including portraits, major paintings, statutes, reliefs, frescoes, murals, sculptures, and other miscellaneous items.

The National Endowment for the Arts and the National Endowment for the Humanities were founded some 30 years ago with the passage of the National Foundation on the Arts and Humanities Act of 1965. Since their inception, the NEA and the NEH have funded numerous museums, symphonies, and projects of historical and cultural significance.

In my State, the economic wealth of Virginia has been the beneficiary of many of those contributions.

In addition, the NEA and NEH grants served as a catalyst for organizations by assisting them in fundraising efforts in their own communities.

How often have I attended these events. And the fact that the National Endowment for the Arts in Washington, DC, recognizes that this particular entity in Virginia is eligible for a grant has enabled them to raise additional funds. It is a force multiplier in the all-important work of raising private contributions.

Have the NEA and the National Endowment for the Humanities made mistakes? Oh, yes, Mr. President, very, very serious errors in judgment and mistakes. But show me any other department or agency of the Federal Government that has not likewise made serious mistakes in the course of their history. We learn by our mistakes. I was here at the time a very serious problem arose with the National Endowment, and I say to my good friend

from North Carolina—and I am privileged to sit in front of his desk, a dear and valued friend—how properly he brought that to the attention of the American people. That was a serious example. But I am convinced we have learned from these mistakes, and they shall not be repeated. Fundamental change, nevertheless, is needed, Mr. President.

In July, the Senate Labor and Human Resources Committee, of which I am privileged to be a member, had the opportunity to review, mark up and report legislation reauthorizing the NEA and the NEH.

This measure, the Arts and Humanities Amendments of 1997 (S. 1020) makes progress toward the structural reforms many of us believe need to be made. It focuses the mission of the agencies, while broadening the populations served. It reduces bureaucracy, while increasing accountability. And it sets in motion a process by which a true endowment can be established.

This reauthorization bill represents the bipartisan work of the committee with jurisdiction. During markup, there were three areas of the measure that I believed merited the committee's attention. I put forth three amendments, all of them being adopted.

First, I expressed concern with the authorization levels contained in this bill. Given the current climate, working toward a balanced budget, which I support, we need to provide a realistic authorization level for the NEA. I offered an amendment to reduce authorization level for the NEA from $175 to $105 million, which was successful. Granted, I recognize that permanent reauthorization of these agencies is unlikely at best. But we must be realistic.

I am pleased that the Appropriations Committee has likewise come to a similar level of funding.

Second, I stated that the NEA's advisory panels need to be more geographically representative. Currently, membership on the panels is concentrated in two States: New York and California. Again, I offered an amendment to ensure that no more than 10 percent of panel members were from one State. We need to ensure that America's geographic diversity is represented on these panels, for it is they who determine which works are funded.

Finally, I remain convinced that administrative costs must be limited. Every dollar saved on administrative costs is another dollar available for grantmaking activities. This panel recognized that fact last Congress, when it favorably reported a reauthorization bill with a 12-percent cap on administrative expenses. We need to get to that level. I outline these points simply to illustrate that the reported measure, represents, in my view, a balanced, thoughtful approach to the dilemma of the NEA. As I said, at the hearing before the Labor Committee nearly 2 months ago, I want to express my support for the arts and the maintenance of a national presence. But I also wish to express my strong support for a thorough review of the agency policy.

The Labor and Human Resources Committee put forth a bipartisan consensus predicted on the hearing and amendment process. The framework of S. 1020 represents a solid basis for handling these issues on this bill. I hope that the leaders of both committees of jurisdiction can set forth a consensus that builds on the work done in the Labor Committee and can come together and craft a measure to be put in this bill that reflects and takes into consideration, I think, the very constructive considerations that have been offered by many of my colleagues this afternoon, and can put together a framework predicated on the foundation set in S. 1020.

I understood the desire to report from the Senate Labor Committee and from the Senate the most favorable bill possible from the agencies' perspective. However, presenting the most realistic measure possible will ensure that our priorities are preserved.

As a new member of the Senate Labor and Human Resources, I was pleased to work with Chairman JEFFORDS and other members of the committee to craft this proposal. This measure meets the need for structural reform, provides appropriate funding levels, and maintains our commitment to the arts.

It is my hope that the work of the committee will be recognized and incorporated in the final legislation funding these agencies.

One thing that this debate makes clear is the need for a thorough revamp of this process. I would support funding for 1 more year with the commitment to evaluate, through hearings before the Labor Committee, appropriate policy changes. It is my hope that a comprehensive review of Federal funding of the arts and the proposed alternatives—several of which have been offered on the floor—will resolve this annual debate.

The United States is the world's leading economic and military superpower, and as we enter the second millennium, I believe we have a special obligation to ensure that the arts are not neglected.

Mr. President, we are approaching the millennium. It would be tragic, I think, for the United States of America to begin to celebrate the millennium having abandoned public support for the arts and, yet, we in the Capitol will still remain in this magnificent set of buildings containing this magnificent art, which were contributions of previous generations.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I ask unanimous consent to be recognized to speak as in morning business.

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

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

(The remarks of Mr. ENZI pertaining to the introduction of Senate Resolution 122 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE BUREAU OF INDIAN AFFAIRS

Mr. BENNETT. Mr. President, with all of the discussions that have occurred in recent weeks regarding the Bureau of Indian Affairs [BIA], it seems that every year about this time, we in Congress scratch our heads and wring our hands over how to improve efficiency with this most cumbersome of Federal bureaucracies. I want to share with my colleagues an experience that one of my constituents recently had with the BIA. It deals with Hodges, Inc., a small construction firm with home offices in Sandy, UT. This is a case with a long and complicated history, but I want my colleagues to have a better understanding of what it is like for a small contractor to conduct business with the BIA.

On June 20, 1994, the BIA awarded to Hodges, Inc., a contract for the renovation of the Taos Pueblo Day School in New Mexico, in the amount of $649,541. According to this agreement, the renovation work was to have been completed within 120 days from July 5, 1994.

The first problem occurred when the architect of the project was also selected to be the contracting officer's representative [COR] creating several built-in conflicts of interest. When Hodges, Inc., the primary contractor, pointed out several deficiencies in the design, the COR unfortunately interpreted these comments as personal attacks. Problems escalated as the COR visited the job site only three or four times, and failed to take into account differing site conditions, changes, and payment clauses of the contract. The COR never attempted to determine if the work was satisfactorily completed at the time of invoice preparation.

Unfortunately, the COR and the contracting officer also failed to understand the significance and importance of issuing change orders to the contractor. Numerous incidents occurred during the renovation when change orders were issued to the contractor, directing him to perform a specific repair and to submit a proposal for that work. Under the terms of the original contract, Hodges, Inc., had no choice but to perform these tasks as directed and, in return, the contracting officer was to pay the contractor an equitable adjustment, covering any increased costs and recognize the additional contract performance time as a result of the directed change.

However, the BIA did not always agree with the invoices submitted by Hodges, Inc., and arbitrarily determined the amount it would pay with no attempt to negotiate the payment or understand the nature of the expenses incurred by the contractor.

Mr. President, competent architects and engineers know that renovation of an existing building is frequently far more complicated than new construction projects. Consequently, extra care should be taken to ensure the accuracy of the contract documents. The number of complications during renovation of the Taos Pueblo Day School that can be traced to defects in the plans and specifications led to significant changes to the contract. Singularly, these defects might not have been significant, but the considerable number of defects hindered the contractor's ability to perform in a timely and cost-efficient manner.

Throughout all the performance process, there was no sense of urgency on the part of the BIA in responding to several concerns raised by the contractor, with delays in answering critical correspondence of up to 45 days. The BIA's failure to respond to requests for clarification or direction in a timely manner impacted Hodges, Inc.'s ability to perform its contractual obligation. By September 1994, the antagonistic relationship between the BIA and Hodges, Inc., was so strained as to make any sort of amicable solution very difficult. Rather than having meaningful discussions to resolve the differences, the remaining performance period became a nonproductive paper war.

The contract was terminated for default by the BIA on April 6, 1995. In accordance with the disputes clause of the contract, Hodges, Inc., appealed the termination for default to the Interior Board of Contract Appeals [IBCA] on June 6, 1995. In October, Hodges, Inc., filed a complaint with the IBCA alleging they were delayed in performing the contract by the BIA's improper administration of several contract clauses. Hodges, Inc., filed claims against the BIA in the amounts of $16,627.39 for improper administration of payments during contract performance, $82,394.53 in documenting costs because of equitable adjustments to the contract under the changes clause of the contract, and $573,398.28 requesting termination for convenience costs.

In December, BIA agreed to a termination for convenience rather than the termination for default, with an effective date of April 6, 1996. On December 12, 1996, the BIA and Hodges, Inc., settled the termination for convenience costs with a payment due to Hodges, Inc., in the amount of $495,000.00. During the course of the negotiations the parties agreed that payment would be made by the middle of January 1997, the because the project was not yet completed by the construction contractor performing on behalf of the bonding company, the costs that the bonding company incurred would be paid directly to them by BIA.

To almost no one's surprise, BIA did not fulfill its obligation of paying by mid-January. Only after my office contacted the BIA in behalf of Hodges, Inc., and with the oversight of the Department of the Interior, were payments made. The first $145,000 payment was received on April 2, 1997, a second $300,000 payment was received on April 16, 1997, and a third $50,000 payment was received on May 6, 1997. All payments were made well after the convened date, causing undue hardship on the contractor who had made arrangements with its subcontractors in order to clear its own debts.

Unfortunately, chapters in this strange saga continue to be written. BIA has denied the contractor claim to recover interest penalties owed them, and because the bonding company has not received payment from BIA for work beyond the conversion, they have been forced to withhold Hodges, Inc.'s performance and payment bonds with the Small Business Administration. As a result, Hodges, Inc., is limited on the size of contracts it can bid, hindering its ability to do business.

Mr. President, this whole episode has escalated the cost of the renovation of the Taos Pueblo Day School from about $650,000 to $1.1 million—$500,000 over the original amount awarded. That is a half a million dollars that could better be spent improving education, law enforcement or housing. And we wonder why things don't seem to be getting any better for the tribes over the years.

In the coming days, we will discuss the future of tribal funding. As this debate is conducted, I ask my colleagues to also keep in mind that no matter how funding formulas are changed, failure to force BIA to improve efficiency will only hinder efforts to improve conditions for the tribes. A new funding formula administered by an old, inefficient, and unresponsive bureaucracy is the equivalent of putting new wine in old bottles. I encourage my colleagues to seriously consider the need to restructure BIA in addition to the need to restructure current funding formulas.

THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

Mr. BENNETT. Mr. President, as my colleagues know nearly a year ago, on September 18, 1996, President Clinton announced the creation of the Grand Staircase-Escalante National Monument under the authority of the Antiquities Act, declaring 1.7 million acres in the State of Utah as a national monument. The majority of the citizens in southern Utah were understandably distressed that they were left out of the designation process. Today, those local citizens continue to be alarmed by the potential negative impact this designation may have on their counties' economies. While we may not wish to reverse the President's designation, we must ensure that the Grand Staircase-Escalante National Monument is sufficiently funded and managed in a way that ensures the integrity of the public comment process.

I have included specific language included in the committee report accompanying H.R. 2107 represents the first opportunity we have to appropriate funds for this monument. I would like to express my appreciation to the chairman, Senator SLADE GORTON and the distinguished ranking member, Senator ROBERT BYRD, for working with me to address the immediate needs of the monument.

The language included in the committee report identifies $6,400,000 in funding for the monument. This amount, rather than been consolidated in a single line item, has been distributed among 20 different subaccounts within the Bureau of Land Management's budget under "Management of Lands and Resources" account. Because these funds are appropriated through so many separate budget functions, it is extremely important that the moneys allocated for the monument be clearly listed in the report by line item, so that funds are not diverted to other agency programs. In order to ensure that sufficient resources are available during this planning stage, the report language mandates that all of the funds designated in this bill are to be allocated to the Utah BLM office and the on-ground field office. I thank the chairman for his help in this matter.

Mr. President, it is also important that Congress provide maximum flexibility at the field office level to utilize these funds in most effective way. The report language expresses the expectation that funds will be relocated as needed, with an emphasis on the provision of visitor services. On this matter, the committee directs the BLM to work cooperatively with Kane and Garfield Counties and the State of Utah in accommodating the diverse range of visitor expectations. The agency should look first to the capabilities and expertise of local citizens, private and government entities in addressing the issue of safety, access, and maintenance of the areas visited by the public. The two impacted counties have already signed cooperative agreements with the BLM outlining the goals, expectations and deliverables and defining the counties' participation in the planning process. The reports I have received of this cooperative effort have been encouraging.

The committee is appropriating ample funds to continue the development of a management plan and allow

the continuation of the existing cooperative agreements with Kane and Garfield Counties. However, the committee has expressed that the cooperative relationship must not be limited to the management plan, as it has been already expanded to include some short-range search and rescue and other related concerns.

Mr. President, regarding the ever critical matter of schools, President Clinton assured the people of Utah that "the creation of this monument will not come at the expense of Utah's children" and that once land exchanges were underway, "the differences in valuation will be resolved in favor of the school Trust." However, the committee rightly so, has expressed its concern that the Department of Interior may be undervaluating school trust lands within the monument. We have been very specific in our instructions to the BLM that this is unacceptable.

In closing, I would like again to thank my distinguished colleagues, Senators GORTON and BYRD and their staff for their assistance in forging the directives that will guide the BLM and the Department of Interior in the planning and management of the Grand Staircase-Escalante National Monument in the next fiscal year.

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

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

MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, September 12, 1997, the Federal debt stood at $5,415,082,668,733.48. (Five trillion, four hundred fifteen billion, eighty-two million, six hundred sixty-eight thousand, seven hundred thirty-three dollars and forty-eight cents)

One year ago, September 12, 1996, the Federal debt stood at $5,216,902,000,000 (Five trillion, two hundred sixteen billion, nine hundred two million)

Twenty-five years ago, September 12, 1972, the Federal debt stood at $436,267,000,000 (Four hundred thirty-six billion, two hundred sixty-seven million) which reflects a debt increase of nearly $5 trillion—$4,978,815,668,733.48 (Four trillion, nine hundred seventy-eight billion, eight hundred fifteen million, six hundred sixty-eight thousand, seven hundred thirty-three dollars and forty-eight cents) during the past 25 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by 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.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance, without amendment:

S. 343. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Mongolia (Rept. No. 105–81).

S. 747. A bill to amend trade laws and related provisions to clarify the designation of normal trade relations (Rept. No. 105–82).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG (for himself and Mr. TORRICELLI):

S. 1175. A bill to reauthorize the Delaware Water Gap National Recreation Area Citizen Advisory Commission for 10 additional years; to the Committee on Energy and Natural Resources.

By Mr. THOMAS (for himself and Mr. CRAIG):

S. 1176. A bill to guarantee that Federal agencies identify State agencies and counties as cooperating agencies when fulfilling their environmental planning responsibilities under the National Environmental Policy Act; to the Committee on Environment and Public Works.

By Mr. WARNER:

S. 1177. A bill to prohibit the exhibition of B–2 and F–117 aircraft in public air shows not sponsored by the Armed Forces; to the Committee on Armed Services.

By Mr. ABRAHAM (for himself, Mr. KENNEDY, Mr. HATCH, Mr. LEAHY, Mr. MURKOWSKI, Mr. DURBIN, Mr. STEVENS, Mr. REED, Mr. GORTON, Mr. INOUYE, and Mr. TORRICELLI):

S. 1178. A bill to amend the Immigration and Nationality Act to extend the visa waiver pilot program, and for other purposes; read twice and placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ENZI (for himself, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. CLELAND, Mr. COATS, Ms. COLLINS, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. GLENN, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. INHOFE, Mr. JEFFORDS, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. REED, Mr. ROBB, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THURMOND, Mr. TORRICELLI, and Mr. WELLSTONE):

S. Res. 122. A resolution declaring September 26, 1997, as "Austrian-American Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS (for himself and Mr. CRAIG):

S. 1176. A bill to guarantee that Federal agencies indentify State agencies and counties as cooperating agencies when fulfilling their environmental planning responsibilities under the National Environmental Policy Act; to the Committee on Environment and Public Works.

THE STATE AND LOCAL GOVERNMENT PARTICIPATION ACT OF 1997

Mr. THOMAS. Madam President, I come to the floor to introduce a piece of legislation which I will submit. It is called the State and Local Participation Act of 1997.

What I would like to do, Madam President, is to introduce a bill that would provide for the opportunity for State, local, and county agencies to participate in the National Environmental Policy Act [NEPA]. This bill is to guarantee that local agencies have an opportunity to be identified as cooperating agencies in the NEPA process, as it takes place in the various locations throughout the country. All of us know that NEPA was passed in the late 1960's, designed to provide for full study before activities are undertaken which affect the environment, and I support that idea. It has been an interesting topic over the years. NEPA, of course, is a relatively small, simple piece of legislation—less than three

pages, which is unusual in this place, to have a bill that is that short. But fortunately or unfortunately, over the period of the 20 years or more that have gone since the introduction and passage of this bill, a great many changes have been made, not by amendment, not even by regulation, but in fact by court decisions. So now we have a very complicated, very expensive, very time-consuming process that is still designed, as it was originally, to make sure that studies are completed, EIS's are completed—environmental impact statements or environmental assessments, whichever is appropriate. I support that idea. But we have been very involved, in our committee, Energy and Natural Resources—been very involved in my State of Wyoming in the use of NEPA to provide for mineral exploration, to provide for roads in the public areas, to provide for grazing, to provide for the number of uses that take place on public lands.

As you can imagine, when you have a State that is 50 percent public lands, these kinds of processes are particularly important. We want to maintain them. We want to strengthen them, in fact. After 20 years of experience, there are some things that we can change. So NEPA was designed to ensure the environmental impacts of proposed actions are considered and minimized by the Federal agency that is responsible for taking the action.

It is also designed to provide for adequate public participation in that decision, in the decision process that is undertaken by the Federal agencies. This sounds pretty simple. As a matter of fact, it sounds pretty basic and reasonable. And it is. Unfortunately, the regulations—have caused it to be something other than simple.

For example, we had the question of exploring for gas in an area north of Casper, WY—a relatively small area. It would have made a great deal of difference to that county in terms of employment, a great deal of difference to that county in terms of tax base and all the things that affect a community. So the county commissioners felt as if they ought to be a part of this process, and I certainly agreed with them. They had more knowledge about that than any other agency, they had more caring about that than any other agency, yet this area was in their county so they also cared, of course, equally as much about taking care of the environment and the natural resources.

Unfortunately the BLM, in this instance, would not make this county commission a cooperating agency. And they turned to the current law which says, basically, "Prior to making any detailed statement, the responsible Federal official shall consult and obtain the comments of Federal agencies which have jurisdiction."

We are simply suggesting that there be added the words, "and State and county agencies." So it would read, ". . . obtain the comments of Federal and State agencies and counties which have jurisdiction." We think that is a reasonable thing to do. I think it is a reasonable thing to do. As a matter of fact, most people think it is a reasonable thing to do.

We also had a forest study that is now underway, in the Medicine Bow Forest, in Wyoming. I talked to the regional forester. And we had another forest in the Black Hills where the counties and local people were not made a cooperating agency. So the regional director said, "Yes, this one we will." Unfortunately, when it came to it, they didn't. And they put them in, in some other category, but not as a cooperating agency. And as a cooperating agency you can participate with the Federal agencies, put your comments in the report rather than just submitting them as any other citizen.

So that is basically what we do with this legislation. It is designed to provide for greater input of State and local governments in the NEPA process. This measure will be known as the State and Local Government Participation Act of 1997. It will simply guarantee that States and counties are given an opportunity to participate, and participate in the decisions that affect the areas over which they have jurisdiction, whether it be in New York, whether it be in Wyoming, whether it be in Texas.

Madam President, I would like also to have unanimous consent that Senator CRAIG, from Idaho, be listed also as a sponsor.

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

Mr. THOMAS. I thank the Chair very much for the time. I certainly urge my associates in the Senate to take a look at this opportunity to provide for one of the things that we talk about as much as anything in this Senate, and that is providing local input into the decisions that are made by the Federal Government. Let me tell you, that is particularly important to those of us from the West—Idaho, Nevada. In Nevada, some 80 percent of the land in Nevada belongs to the Federal Government. So the decisions that are made on Federal lands by Federal agencies have a tremendous impact on the future of those States and the future of the economy, and on the future of citizens. It is my belief, and the belief of many others, that local governments, the people that have been elected from these areas, should be participating, cooperating agencies in the determination of the NEPA arrangement. We think that is what this bill will do and we certainly urge support for it.

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. 1176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "State and Local Government Participation Act of 1997."

SEC. 2. Section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332(2)(C)) is amended—

(1) by striking "any Federal agency which has" in the first full sentence after subparagraph (v); and

(2) inserting in lieu thereof "Federal and state agencies, and county governments which have".

By Mr. WARNER:

S. 1177. A bill to prohibit the exhibition of B–2 and F–117 aircraft in public air shows not sponsored by the Armed Forces; to the Committee on Armed Services.

THE PUBLIC AIR SHOW EXHIBITION PROHIBITION ACT OF 1997

Mr. WARNER. Madam President, I am going to momentarily send a bill to the desk which will prohibit the use of F–117 aircraft and B–2 aircraft in public shows.

Madam President, I was stunned to learn last night of this tragic accident, and in no way does my action reflect any discredit on the pilot or in any way prejudge the outcome of this tragic accident. Indeed, there are facts at this moment which indicate this pilot took a risk of life to possibly avoid a greater degree of risk to others. As I listened to that report, I thought back to my own experience in Korea in 1951. My commanding officer—I remember him very well—Lt. Col. Al Gordon, U.S. Marine Corps, took off in his AD–1 bomber, and he experienced fire over a community. He stayed with his aircraft in order to avoid that aircraft going into a community, and as a consequence it lost altitude. When he finally bailed out, there was insufficient distance between the aircraft and the ground. His chute streamed and he lost his life. I remember it so well because I was detailed to go out into the mountains and collect that brave officer.

I believe that we as a nation should not be using this type of military asset in this type of show. This airplane, on a unit program cost, costs the taxpayers $100 million a copy. We only have 53 remaining, and they are needed for special missions in the national security interests of this country. I just do not believe that type of asset can be put at this type of risk. The B–2 bomber is $2 billion a copy.

Madam President, I stand with some embarrassment because I realize my office and others are besieged with requests from communities and constituents to provide these aircraft for air shows. The aircraft do enhance an air show a great deal, but I feel it is a matter of principle that this Nation cannot subject that costly an aircraft, one

that is essential to the performance of specialized missions, in this type of circumstance. As a result, I will submit this bill. Further, I am going to consider this issue in the course of the conference between the House and the Senate on the 1998 authorization bill. It will undoubtedly provoke some comment which I will listen to very carefully. I just wanted to express the heartfelt feelings of one Senator that we have to look more carefully at the use of these very costly systems in connection with public air shows such as this.

I yield the floor and thank my colleagues.

By Mr. ABRAHAM (for himself, Mr. KENNEDY, Mr. HATCH, Mr. LEAHY, Mr. MURKOWSKI, Mr. DURBIN, Mr. STEVENS, Mr. REED, Mr. GORTON, Mr. INOUYE and Mr. TORRICELLI):

S. 1178. A bill to amend the Immigration and Nationality Act to extend the visa waiver pilot program, and for other purposes; read twice.

THE VISA WAIVER PILOT PROGRAM REAUTHORIZATION ACT OF 1997

Mr. ABRAHAM. Mr. President, today I am introducing legislation that would reauthorize the current Visa Waiver Pilot Program, which is scheduled to expire on September 30, 1997. Senator KENNEDY has joined me in developing this reauthorizing legislation, and I am pleased to be introducing it with him. I am also pleased to have Senators HATCH, LEAHY, MURKOWSKI, DURBIN, STEVENS, REED, GORTON, INOUYE and TORRICELLI as original cosponsors.

The Visa Waiver Pilot Program permits aliens from designated countries to enter the United States as temporary visitors for up to 90 days with a passport, but without the additional visa that normally would also be required to enter our country. The program became effective in 1988, and was originally limited to eight countries and for a duration of 3 years. Twenty-five countries now participate, and the program's authorizing statute has been amended and extended five times—a clear tribute to the program's success. Last year's immigration reform law, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, extended the Visa Waiver Pilot Program through September 30, 1997. The program was extended for only 1 year so that we could consider related issues in more detail and apart from the multitude of immigration issues Congress was considering last year.

Visa waiver countries are now selected by the Attorney General in consultation with the Secretary of State, a change that was instituted through last year's immigration reform law. In order to be eligible for the program, countries must meet a number of statutory requirements, which aim to ensure that aliens admitted under the program are generally low risk and will not overstay their authorized period of stay in the United States.

Mr. President, this program has proven a great success. It has significantly furthered international travel and tourism. Nonetheless, I believe the program's authorizing statute can be improved in a number of ways to address administrative failings and, more generally, some of our Nation's very serious illegal immigration problems.

For instance, under the program, any country designated a Visa Waiver Program participant may be placed in probationary status if it does not maintain a low disqualification rate and may eventually be removed from the program. The disqualification rate represents the percentage of nationals from a particular country who applied for admission to the United States. at a port of entry as non-immigrants and who violated the terms of their non-immigrant visas, were excluded from admission upon trying to enter or withdrew their applications for admission. But, due to problems in the administration of the program, no country has ever been removed from the program, and countries' continuing eligibilities have not even been assessed.

What can we do to improve this situation? First, we simply must improve the current abysmal record of tracking—and even counting—visa overstayers. Estimates released earlier this year by the INS put the number of illegal aliens in the United States at 5 million; 41 percent of these illegal aliens entered the United States legally but overstayed their authorized period of stay.

Moreover, we recently learned that the INS cannot even accurately assess overall numbers of those who enter legally and overstay, despite the current use of an entry-exit matching system through the I–94 cards. The current paper-based entry-exit control system relies on a card, the I–94 form, half of which is collected upon entry and the other half of which is collected by the airline or other carrier on exit. Ideally, the INS then would match up the two halves of the card. This system should permit the INS to identify individual overstayers. Yet the INS has used it only to collect aggregate numbers of overstayers. Even for that limited purpose the system has failed. We recently learned that INS data based on the I–94's has been virtually unusable since 1992.

The inspector general of the Department of Justice recently issued an alarming report on the subject of non-immigrant visa overstayers. In that report, which was issued on September 4, the inspector general found that INS's primary information system on non-immigrants, is not producing reliable overstay data, either in the aggregate, or on individual nonimmigrants, and noted that INS is unable to perform its responsibilities for monitoring the Visa Waiver Pilot Program, including determining whether a country should be placed on probation or terminated from the program. We need to take immediate action to correct these failings and require INS to carry out its responsibilities.

Mr. President, on July 17 I held a subcommittee hearing to examine this program. In addition to learning about weaknesses in the INS's monitoring of visa overstayers, we also learned that, in the view of many nations, the visa refusal rates countries must meet to gain admission to the program are set too low given the somewhat subjective nature of the visa awards process. Since the program's inception, efforts to modify numerical criteria have continually resurfaced. Some narrow efforts have been successful for a time, but none have resolved the issue on a more permanent basis. Rather than have any sort of special probationary status reappear from time to time or create any special status for particular countries, in my view it is better to set these criteria at a more fair level once and for all and to apply the requirements of the Visa Waiver Pilot Program rigorously to newly admitted countries and to countries already in the program.

This legislation addresses the problem of numerical criteria by slightly broadening potential eligibility for the Visa Waiver Program. At the same time, this legislation contains three provisions tightening the program, along with a provision improving administration and one extending the program for 5 years.

Allow me to be specific:

First: The bill would modify the refusal rate countries must meet to be eligible for the Visa Waiver Pilot Program. Under current law, 8 U.S.C. 1187(c), in order to be eligible for pilot program status, a country must have a low nonimmigrant visa refusal rate of 2 percent per year on average over the previous 2 fiscal years, and its refusal rate must not exceed 2.5 percent in either year. The refusal rate is the percentage of nonimmigrant visa applications that are rejected at U.S. Embassies and consulates overseas. Our legislation would change those numbers to 3 percent and 3.5 percent, respectively.

Our goal here in changing the numbers should not be to guarantee that any particular countries will be admitted into the program or to increase participation generally for its own sake. Rather, we should seek to make the criteria more fair and as a whole more reflective of reasons for which a country should be entitled to visa waiver status. A number of witnesses testified at our hearing that the Republic of Korea—commonly referred to as South Korea—should be admitted to the program. While I am confident that South Korea will eventually be admitted to the Visa Waiver Pilot Program,

I should note that, since South Korea's refusal rate numbers may exceed 3 percent for the current fiscal year, South Korea may not be eligible for admission to the Visa Waiver Pilot Program immediately.

Mr. President, increasing the refusal rate numerical cutoffs from 2 percent/2.5 percent to 3 percent/3.5 percent will not have a dramatic effect on the number of countries eligible for the Visa Waiver Pilot Program. Fourteen countries meet the current refusal rate criteria but have not been admitted to the program for other reasons. Four others—Botswana, Chile, Greece, and South Korea, do not meet the current criteria, but may meet a modified cutoff of 3 percent/3.5 percent, depending on what happens with their FY97 numbers. Changing the numerical cutoff by 1 percent would thus mean that 18 rather than 14 countries not admitted to the Visa Waiver Pilot Program might now meet the refusal rate criteria. Of those four additional countries, only South Korea is likely to meet other program requirements in the near future.

The second reform in this legislation will improve reporting of visa overstayer numbers and disqualification rates. Current law provides that countries can be removed from the Visa Waiver Pilot Program if their visa overstay and disqualification rates—i.e., the rate of those turned away at ports of entry as inadmissible, exceed 2 percent of those seeking admission as nonimmigrants under the Visa Waiver Pilot Program. Yet the INS has produced no data on overstay numbers since 1992 and has accordingly been unable to fulfill its statutory duties.

To address this serious shortcoming in administration of the Visa Waiver Pilot Program, the bill would require that the Attorney General: First, make precise numerical estimates for each pilot program country of that country's visa overstay and disqualification rates, and second, report those estimates to Congress within 30 days after the end of each fiscal year. In addition, for any new country to be admitted under the slightly revised refusal rate criteria, the Attorney General would have to certify that the country's visa overstay and disqualification rates had been within the statutory limits.

Third, this legislation provides for enhanced passport security requirements. Under current program requirements, a country may not be admitted to the Visa Waiver Pilot Program unless it certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens. At the subcommittee hearing we held on this issue in July, the INS suggested that participant countries also be required to issue fraud resistant passports. This legislation actually builds on the INS's proposed requirement. It would require that countries seeking admission to the program issue machine-readable and highly fraud-resistant passports. It would no longer be enough for countries to certify that they were moving toward issuing these passports.

The proposed bill would also extend this requirement to countries already in the program. Despite the requirement in current law that countries at least be developing machine-readable passport programs, there is no requirement that they follow through. Likewise, there has been no follow-up by the State Department to ensure that they eventually meet the requirement. For countries in the program as of September 30, 1997, the bill provides that the Attorney General may not redesignate a country as a pilot program country unless the country certifies that it has issued or will issue as of a date certain machine-readable and highly fraud-resistant passports and unless the country subsequently complies with any such certification commitments.

Fourth, this legislation links expansion of Visa Waiver Pilot Program with INS development of an automated entry-exit control system. The illegal immigration reform bill requires the Attorney General to develop, by September 30, 1998, an automated entry-exit control system that will match arrival and departure records and make possible identification of individual aliens who overstay their visas. INS indicates that they will have this system up and running on time for ports of entry other than our land borders. To ensure that the Visa Waiver Pilot Program will not be expanded before INS complies with those requirements—and to add some incentive for them to do so—the Abraham-Kennedy bill would require that no new country be admitted to the program until 30 days after the Attorney General certifies to Congress that the automated entry-exit control system mandated by the illegal immigration reform law is operational at all ports of entry excluding the land borders. I note that there may be some question as to whether last year's law intended to have the automated entry-exit control system apply to the land borders, and I will be working separately to clarify that Congress intended the provision to apply only to entry and exit at ports of entry excluding the land borders.

Fifth, this legislation provides modified roles for the Secretary of State and Attorney General to reflect their respective Agency's expertise. Last year's immigration reform law also altered the relationship between the Secretary of State and the Attorney General with respect to decisions under the Visa Waiver Pilot Program. That program previously provided that relevant determinations would be made jointly by the Secretary and the Attorney General. The illegal immigration bill provided that such determinations are to be made by the Attorney General in consultation with the Secretary. Under the Abraham-Kennedy bill, the Secretary, in consultation with the Attorney General, would have the lead role only in terms of initially allowing a country into the Visa Waiver Pilot Program.

The Secretary is given this role because she compiles the refusal rates and is in a better position to assess a country's passport program than the Attorney General. Once countries are admitted to the program, however, the Attorney General would play the lead agency role in determining whether a country will remain in the program or be placed on probation for having excessive overstay and disqualification rates. This is in keeping with the Attorney General's responsibility for determining these figures and over aliens once they arrive at a port of entry to the United States.

Finally, the proposed bill includes a 5-year extension of the Visa Waiver Pilot Program, setting an expiration date of September 30, 2002.

Mr. President, I urge my colleagues to support the extension of this important program in conjunction with the changes that Senator KENNEDY and I have developed. This legislation will rationalize an important program that has brought significant benefits to our Nation, while instituting important safeguards to protect that program's integrity.

I ask unanimous consent that the full 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. 1178

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 "Visa Waiver Pilot Program Reauthorization Act of 1997".

SEC. 2. AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.

(a) DESIGNATION OF PILOT PROGRAM COUNTRIES.—Section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)) is amended to read as follows:

"(c) DESIGNATION OF PILOT PROGRAM COUNTRIES.—

"(1) IN GENERAL.—The Secretary of State, in consultation with the Attorney General, may designate any country as a pilot program country if it meets the requirements of paragraph (2). In order to remain a pilot program country in any subsequent fiscal year, a country shall be redesignated as a pilot program country by the Attorney General in accordance with the requirements of paragraph (3).

"(2) QUALIFICATIONS.—The Secretary of State may not designate a country as a pilot program country unless the following requirements are met:

"(A) LOW NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less

than 3.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(B) LOW NONIMMIGRANT VISA REFUSAL RATE FOR EACH OF 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 3.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(C) MACHINE-READABLE PASSPORT PROGRAM.—The government of the country certifies to the Secretary of State's and the Attorney General's satisfaction that it issues machine-readable and highly fraud-resistant passports to its citizens.

"(D) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States' law enforcement interests would not be compromised by the designation of the country.

"(E) ILLEGAL OVERSTAY AND DISQUALIFICATION.—For any country with an average nonimmigrant visa refusal rate during the previous two fiscal years of greater than 2 and less than 3 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years, and for any country with an average number of refusals during either such year of greater than 2.5 and less than 3.5 percent, the Attorney General shall certify to the Committees on the Judiciary of the Senate and the House of Representatives that the sum of—

"(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission at a port of entry during such previous fiscal year as a nonimmigrant visitor, and

"(II) the total number of nationals for that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

is less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

"(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS.—The Attorney General, in consultation with the Secretary of State, shall assess the continuing and subsequent qualification of countries designated as pilot program countries and shall redesignate countries as pilot program countries only if the requirements specified in this subsection are met. For each fiscal year (within the pilot program period) after the initial period the following requirements shall apply:

"(A) COUNTRIES PREVIOUSLY DESIGNATED.—(i) Except as provided in subsection (g) of this section, in the case of a country which was a pilot program country in the previous fiscal year, the Attorney General may not redesignate such country as a pilot program country unless the sum of—

"(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(II) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

"(ii) In the case of a country which was a pilot program country in the previous fiscal year, the Attorney General may not redesignate such country as a pilot program country unless the Attorney General has made a precise numerical estimate of the figures under clauses (i)(I) and (i)(II) and reports those figures to the Committees on the Judiciary of the Senate and the House of Representatives within 30 days after the end of the fiscal year. As of September 30, 1999, any such estimates shall be based on data collected from the automated entry-exit control system mandated by section 110 of Public Law 104–708.

"(iii) In the case of a country which was a pilot program country in the previous fiscal year and which was first admitted to the visa waiver pilot program prior to September 30, 1997, the Attorney General may not redesignate such country as a pilot program country unless the country certifies that it has issued or will issue as of a date certain machine-readable and highly fraud-resistant passports and unless the country subsequently complies with any such certification commitments.

"(B) NEW COUNTRIES.—In the case of a country to which the clauses of subparagraph (A) do not apply, such country may not be designated as a pilot program country unless the following requirements are met:

"(i) LOW NONIMMIGRANT VISA REFUSAL RATE IN PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 3.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(ii) LOW NONIMMIGRANT VISA REFUSAL RATE IN EACH OF THE 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 3.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(4) INITIAL PERIOD.—For purposes of paragraph (3), the term 'initial period' means the period beginning at the end of the 30-day period described in section 2(c)(1) of the Visa Waiver Pilot Program Reauthorization Act of 1997 and ending on the last day of the first fiscal year which begins after such 30-day period.".

(b) AUTHORIZED PILOT PROGRAM PERIOD.—Section 217(f) of that Act is amended by striking "September 30, 1997" and inserting "September 30, 2002".

(c) DEVELOPMENT OF AUTOMATED ENTRY CONTROL SYSTEM.—(1) As of the date of enactment of this Act, no country may be newly designated as a pilot program country until the end of the 30-day period beginning on the date that the Attorney General submits to the Committees on the Judiciary of the House of Representatives and the Senate a certification that the automated entry-exit control system described in paragraph (2) is operational.

(2) The automated entry-exit control system is the system mandated by section 110 of Public Law 104–208 as applied at all ports of entry excluding the land borders.

Mr. KENNEDY. Mr. President, I am honored to join Senator ABRAHAM, the chairman of the Immigration Subcommittee, in introducing legislation to extend the Visa Waiver Program for 5 additional years. The program serves the Nation well, and deserves to be extended.

I am particularly pleased that the bill we introduce today would create a pilot program to expand the number of countries able to participate in the Visa Waiver Program. I am optimistic that Portugal, for example, will qualify for the waiver program under the legislation which Senator ABRAHAM and I propose today. I have advocated Portugal's inclusion in this program for several years because of the close ties between the people of Massachusetts and that country. Its inclusion in this program will allow Portuguese citizens to come to the United States to visit relatives or conduct trade and business without facing the often time-consuming task of obtaining a visa.

This Visa Waiver Program started as a pilot program in 1988 with only one country, the United Kingdom. Today, it has grown into an important part of overall U.S. immigration policy. Twenty-five countries now qualify for the program, and it brings significant benefits to the United States as well as to visitors from those nations.

Almost half of those who visit the United States for business or tourism now enter under this program. Billions of dollars in international transactions are facilitated by the ease of travel that it makes available. According to the Travel Industry Association of America, tourists coming to this country under the program contribute $84 billion to the economy and help support 947,000 American jobs in the tourist industry.

The Visa Waiver Program also strengthens immigration enforcement. Rather than spending tax dollars to conduct needless visa interviews, the program enables us to concentrate scarce resources on the serious immigration problems of keeping criminals and terrorists out and dealing more effectively with visa fraud. As a result of the program, millions of dollars and hundreds of consular personnel have been reallocated to target the most serious immigration threats.

Countries must meet strict criteria before they are eligible to participate in the waiver program, in order to prevent illegal immigration to the United States. The Attorney General may cancel a country's participation at any time if she believes a waiver compromises law enforcement or national security.

Travelers from participating countries may come to the United States without visas, but they still must be interviewed by U.S. immigration officials at the airport or other points of entry before they are admitted to this country. According to INS statistics, few travelers abuse the program to enter the United States illegally. INS has turned away less than 1 percent of those seeking entry under the Visa Waiver Program.

The bill we introduce today makes a good waiver program even better. It

builds on the success of the current waivers by establishing a small pilot program to enable certain countries that do not currently qualify to participate if they meet certain strict requirements. A precondition for the pilot program is for INS to develop and implement an automated entry-exit control system. Today, we know who comes to America, but we do not always know who leaves. We need this information in order to track down visitors who remain in this country illegally after their visas expire, and to ensure that countries are abiding by the requirements of the program, and are not contributing to illegal immigration.

In order to participate in the new pilot program, a country must have a low visa refusal rate at our consulates abroad. Under the normal Visa Waiver Program, qualifying countries must have a refusal rate of less than 2 percent over the past 2 years. The Abraham-Kennedy pilot program would set the requirement at 3 percent for countries to enter the program on a pilot basis. In recent times, Portugal's refusal rate has been below the 3-percent threshold, so unless Portugal's refusal rate rises, I would look forward at long last to welcoming Portugal into this program.

Mr. President, the Visa Waiver Program works, and I urge Congress to extend it. I commend Senator ABRAHAM for offering this timely legislation, and I am proud to be a sponsor.

Mr. MURKOWSKI. Mr. President, I rise today to support Senator ABRAHAM and Senator KENNEDY's efforts to amend and reauthorize the Visa Waiver Pilot Program [VWPP]. The Visa Waiver Pilot Program has been highly successful program, freeing up embassy staff, promoting tourism and trade, and fostering closer ties between our country and her allies. Chairman ABRAHAM has made a number of important changes to the VWPP which I believe will make this program even more successful. The changes include tightening controls so that there will not be abuse of the program, and adjusting the admission criteria to include deserving countries.

As many of my colleagues know, I have been a strong advocate of including South Korea in the Visa Waiver Pilot Program. I believe no other country, not currently included in the pilot program, represents as close an ally as South Korea. As our fifth largest export market, home to 37,000 of our troops, and with an economy larger than all but 5 of the current visa waiver countries, this democratic country deserves the right to participate in this program. With a 1996 unemployment rate of 2 percent, lower than all but one of the VWPP countries, the burgeoning middle class in South Korea should be able to travel to the United States without the cumbersome restraints associated with citizens traveling from high-risk countries.

The Abraham legislation is a positive step, but it is unclear if South Korea will be eligible for the VWPP in the short term because of the bill's continued reliance on refusal rates as the defining criteria for admission. However, under this legislation Korea stands a much better chance of becoming eligible than under current law. For this reason and the fact that Senator ABRAHAM and Senator KENNEDY have strengthened the safeguards in the VWPP, I am supporting this legislation.

This bill expands along the concept of promoting tourism and trade and fostering closer ties between our country and our allies by increasing the refusal rates needed to become eligible for inclusion into the Visa Waiver Pilot Program. The bill also addresses many of the concerns raised by the Immigration and Naturalization Service and the Justice Department by including additional safeguards to ensure that the program is not abused and becomes a vehicle for illegal immigration.

For instance, in order for a visa waiver country to be redesignated as a visa waiver country, under this legislation the Attorney General must make precise estimates, based upon data collected from an automated entry-exit control system, of the overstay rates of each country. If the Attorney General cannot make an estimate for a country, that country will lose its privilege to travel to the United States visa free.

In the past, Congress could not adequately monitor the effectiveness of the Visa Waiver Pilot Program. With the requirements for overstay rates, Congress will have analytical evidence that countries are not abusing this privilege and that the Visa Waiver Pilot Program works. Coupled with the additional safeguards, including the requirement for machine readable and highly fraud resistant passports for countries entering the program, the entry-exit control system, already being implemented by INS, will ensure that the VWPP continues to be successful.

I would like to see further changes. For example, changing the reliance on arbitrary refusal rates decided in many cases by overworked staff in our embassies and consulate offices abroad. Examples where embassy staff have mistakingly denied visas, abound. They include:

President Kim Young Sam's sister rejected the first time she applied for a tourist visa.

The daughter of the chairman of the multibillion-dollar company, Hyundai, was rejected for a student visa based on insufficient financial resources.

The son of the president of IBM Korea was rejected because the consular office did not believe the son would be a good student. He had already been accepted in the school in the United States.

For South Korea, where our United States Embassy processes more nonimmigrant visa applications than any other country in the world, the use of the refusal rate automatically puts South Korea at a disadvantage. This needs to be corrected. Perhaps with the establishment of a working entry-exit control system required in this bill, the overstay rate coupled with other objective criteria can be used to determine eligibility.

I would like to commend Senator ABRAHAM and Senator KENNEDY for taking such an active role regarding Korea and the Visa Waiver Pilot Program. The Subcommittee on Immigration on the Judiciary Committee has worked closely with my staff to try to accommodate my concerns. I look forward to working closely with both Senators in the future regarding this issue.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 219

At the request of Mr. LUGAR, his name was added as a cosponsor of S. 219, a bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States.

S. 606

At the request of Mr. HUTCHINSON, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 606, a bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors.

S. 648

At the request of Mr. GORTON, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 648, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

S. 723

At the request of Mr. LAUTENBERG, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 723, a bill to increase the safety of the American people by preventing dangerous military firearms in the control of foreign governments from being imported into the United States, and for other purposes.

S. 781

At the request of Mr. HATCH, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor

of S. 781, a bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

S. 927

At the request of Ms. SNOWE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 927, a bill to reauthorize the Sea Grant Program.

S. 1066

At the request of Mr. WELLSTONE, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of S. 1066, a bill to amend the Internal Revenue Code of 1986 to allow the alcohol fuels credit to be allocated to patrons of a cooperative in certain cases.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. SARBANES, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Concurrent Resolution 7, a concurrent resolution expressing the sense of Congress that Federal retirement cost-of-living adjustments should not be delayed.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE CONCURRENT RESOLUTION 38

At the request of Mr. ROTH, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of Senate Concurrent Resolution 38, a concurrent resolution to state the sense of the Congress regarding the obligations of the People's Republic of China under the Joint Declaration and the Basic Law to ensure that Hong Kong remains autonomous, the human rights of the people of Hong Kong remain protected, and the government of the Hong Kong SAR is elected democratically.

SENATE RESOLUTION 119

At the request of Mr. FEINGOLD, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of Senate Resolution 119, a resolution to express the sense of the Senate that the Secretary of Agriculture should establish a temporary emergency minimum milk price that is equitable to all producers nationwide and that provides price relief to economically distressed milk producers.

SENATE RESOLUTION 122—DECLARING SEPTEMBER 26, 1997 AS AUSTRIAN-AMERICAN DAY

Mr. ENZI submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 122

Whereas 1997 marks the 50th anniversary of General George C. Marshall's plan for assisting the free countries of Europe in their post-World War II rebuilding process;

Whereas on September 26, 1945, upon the insistence of the United States, a conference was held in Vienna by the Allies and the 9 Austrian Federal State Governors, that laid the foundation for the first post-war Austrian government recognized by the United States and the other Allied Forces;

Whereas this treaty saved Austria from being divided into an East and West, as in Germany;

Whereas Austrians are thankful for the generosity demonstrated by the citizens and the Government of the United States after World War II;

Whereas Austrian-Americans have made important contributions to the American way of life as well as in industry, education, culture, and the arts and sciences; and

Whereas Austrian born Americans, or Americans of Austrian descent, have brought prestige and recognition to the United States as Nobel laureates in medicine, economics, and the sciences: Now, therefore, be it

Resolved, That the Senate—

(1) declares September 26, 1997, as "Austrian-American Day"; and

(2) authorizes and requests the President to commend this observance to the citizens of the United States in honor of this momentous occasion.

Mr. ENZI. Mr. President, I rise to join my friend, the Honorable Senator from Indiana, RICHARD LUGAR, in the submission of a resolution declaring September 26, 1997, Austrian-American Day. We are also joined by many distinguished colleagues from both sides of the aisle in support of this measure to commemorate and celebrate the strong ties that bind the Government of Austria and the United States and our people. This resolution has deep meaning to me because of my Austrian roots and heritage.

The year 1997 has special significance in the history of Austrian-American relations for it marks the 50th anniversary of what became known as the Marshall plan. It was 1947 when Gen. George C. Marshall outlined his vision of a program to rebuild war-torn Europe through a policy of reconciliation and compassion. The Marshall plan that was eventually implemented by the United States is remembered fondly by the free nations of Europe for its monumental and generous aid that gave the people of these nations hope after the most costly war in the history of the world—hope for freedom and lasting piece. Without the incredible vision of General Marshall the democracies of Europe might have floundered in their rebuilding efforts, creating an avenue for the expansion of communism in the midst of the cold war. Marshall's foresight and the willingness of the people and the Government of the United States to assist all of free Europe, especially Austria, resulted in the growth of stable governments in these countries.

Austrians have not forgotten the efforts of the United States to maintain the unity of their country after World War II. The United States was instrumental in calling for a conference to be held in Vienna to debate the future of Austria. On September 26, 1945, this conference was convened between the Allies and the representatives of the nine Austrian Federal States, during which a treaty was signed that rescued Austria from a fate similar to that of the Soviet-occupied European countries and a divided Germany.

The resolution I propose today, commemorates the sacrifices Americans made for Austria after World War II, as well as contributions that Austrian immigrants and Americans and Austrian decent have made to the American way of life in industry, education, government, culture, and the arts. Austrian-Americans that have earned the Nobel Prize include Victor Franz Hess in physics, Karl Landsteiner in medicine, and Friedrich von Hayek in economics. Austria has produced the likes of United States Supreme Court Justices Felix Frankfurter and Earl Warren; the originator of the Pulitzer Prize, Joseph Pulitzer; John David Hertz, the founder of today's Hertz-Rent-A-Car and the well-known Yellow Cab system; Estee Lauder, maker of leading cosmetics; and Raoul Fleischman, cofounder of the New Yorker magazine and member of the Fleischman yeast family.

Through the years, Americans have also enjoyed the work of those Americans of Austrian descent or origin, such as Fred Astaire, Billy Wilder, and of course "The Terminator," Arnold Schwarzenegger. This is but a small sample of the names to be found on a list of famous Austrian-Americans who have made heartfelt contributions to the legacy of the America they love.

Austria and the United States have shared these common ideals and interests, not just in the past 50 years, but for nearly two centuries. It is for these reasons that I feel it is altogether appropriate that we recognize not only the proud people of Austria, but the warm and cordial relations that exist between our two countries at this historic time that holds such deep meaning for both our nations.

AMENDMENTS SUBMITTED

THE FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNTABILITY ACT OF 1997 PRESCRIPTION DRUG USERS FEE REAUTHORIZATION ACT OF 1997

HARKIN (AND OTHERS) AMENDMENT NO. 1137

(Ordered to lie on the table.)

Mr. HARKIN (for himself, Mr. HATCH, Mr. DASCHLE, and Ms. MIKULSKI) submitted an amendment intended to be proposed by them to the bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes; as follows:

At the appropriate place, insert the following new section:

SEC. ____. ESTABLISHMENT OF NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE.

(a) IN GENERAL.—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) by striking section 404E; and

(2) in part E, by amending subpart 4 to read as follows:

"Subpart 4—National Center for Complementary and Alternative Medicine

"SEC. 485C. PURPOSE OF CENTER.

"(a) IN GENERAL.—The general purposes of the National Center for Complementary and Alternative Medicine (in this subpart referred to as the 'Center') are—

"(1) the conduct and support of basic and applied research (including both intramural and extramural research), research training, the dissemination of health information, and other programs, including prevention programs, with respect to identifying, investigating, and validating complementary and alternative treatment, prevention, and diagnostic systems, modalities, and disciplines; and

"(2) carrying out the functions specified in sections 485D (relating to dietary supplements).

The Center shall be headed by a director, who shall be appointed by the Secretary. The Director of the Center shall report directly to the Director of NIH.

"(b) ADVISORY COUNCIL.—The Secretary shall establish an advisory council for the Center in accordance with section 406, except that the members of the advisory council who are not ex officio members shall include one or more practitioners from each of the disciplines and systems with which the Center is concerned, and at least 3 individuals representing the interests of individual consumers of complementary and alternative medicine.

"(c) COMPLEMENT TO CONVENTIONAL MEDICINE.—In carrying out subsection (a), the Director of the Center shall, as appropriate, study the integration of alternative medical treatment and diagnostic systems, modalities, and disciplines into the practice of conventional medicine as a complement to such medicine and into health care delivery systems in the United States.

"(d) APPROPRIATE SCIENTIFIC EXPERTISE.—The Director of the Center, after consultation with the advisory council for the Center and the division of research grants, shall ensure that scientists with appropriate expertise in research on complementary and alternative medicine are incorporated into the review, oversight, and management processes of all research projects and other activities funded by the Center. In carrying out this subsection, the Director of the Center, as necessary, may establish review groups with appropriate scientific expertise.

"(e) EVALUATION OF VARIOUS DISCIPLINES AND SYSTEMS.—In carrying out subsection (a), the Director of the Center shall identify and evaluate alternative medical treatment and diagnostic modalities in each of the disciplines and systems with which the Center is concerned, including each discipline and system in which accreditation, national certification, or a State license is available.

"(f) ENSURING HIGH QUALITY, RIGOROUS SCIENTIFIC REVIEW.—In order to ensure high quality, rigorous scientific review of complementary and alternative medical and diagnostic systems, modalities, and disciplines, the Director of the Center shall conduct or support the following activities:

"(1) Outcomes research and investigations.

"(2) Epidemiological studies.

"(3) Health services research.

"(4) Basic science research.

"(5) Clinical trials.

"(6) Other appropriate research and investigational activities.

"(g) DATA SYSTEM; INFORMATION CLEARINGHOUSE.—

"(1) DATA SYSTEM.—The Director of the Center shall establish a bibliographic system for the collection, storage, and retrieval of worldwide research relating to complementary and alternative medical treatment and diagnostic systems, modalities, and disciplines. Such a system shall be regularly updated and publicly accessible.

"(2) CLEARINGHOUSE.—The Director of the Center shall establish an information clearinghouse to facilitate and enhance, through the effective dissemination of information, knowledge and understanding of alternative medical treatment and diagnostic systems and disciplines by health professionals, patients, industry, and the public.

"(h) RESEARCH CENTERS.—

"(1) IN GENERAL.—The Director of the Center, after consultation with the advisory council for the Center, shall provide support for the development and operation of multipurpose centers to conduct research and other activities described in subsection (a)(1) with respect to complementary and alternative medical treatment and diagnostic systems, modalities, and disciplines.

"(2) REQUIREMENTS.—Each center assisted under paragraph (1) shall use the facilities of a single entity, or be formed from a consortium of cooperating entities, and shall meet such requirements as may be established by the Director of the Center. Each such center shall—

"(A) be established as an independent entity; or

"(B) be established within or in affiliation with an entity that conducts research or training described in subsection (a)(1).

"(3) DURATION OF SUPPORT.—Support of a center under paragraph (1) may be for a period not exceeding 5 years. Such period may be extended for one or more additional periods not exceeding 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director of the Center and if such group has recommended to the Director that such period should be extended.

"(i) BIENNIAL REPORT.—The Director of the Center shall prepare biennial reports on the activities carried out or to be carried out by the Center, and shall submit each such report to the Director of NIH for inclusion in the biennial report under section 403.

"(j) AVAILABILITY OF RESOURCES.—After consultation with the Director of the Center, the Director of NIH shall ensure that resources of the National Institutes of Health, including laboratory and clinical facilities, fellowships (including research training fellowship and junior and senior clinical fellowships), and other resources are sufficiently available to enable the Center to appropriately and effectively carry out its duties as described in subsection (a).

"(k) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2002. Amounts appropriated under this subsection for fiscal year 1998 are available for obligation through September 30, 2000. Amounts appropriated under this subsection for fiscal year 1999 are available for obligation through September 30, 2000.

"SEC. 485D. OFFICE OF DIETARY SUPPLEMENTS.

"(a) IN GENERAL.—There is established within the Center an office to be known as the Office of Dietary Supplements (in this section referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of the Center. The Director of the Center shall carry out the functions specified in this section acting through the Director of the Office.

"(b) DUTIES.—

"(1) IN GENERAL.—The Director of the Office shall—

"(A) expand the activities of the national research institutes with respect to the potential role of dietary supplements as a significant part of the efforts of the United States to improve health care; and

"(B) promote scientific study of the benefits of dietary supplements in maintaining health and preventing chronic disease and other health-related conditions.

"(2) CERTAIN DUTIES.—The Director of the Office shall—

"(A) conduct and coordinate scientific research within the National Institutes of Health relating to dietary supplements and the extent to which the use of dietary supplements can limit or reduce the risk of diseases such as heart disease, cancer, birth defects, osteoporosis, cataracts, or prostatism;

"(B) collect and compile the results of scientific research relating to dietary supplements, including scientific data from foreign sources or other offices of the Center;

"(C) serve as the principal advisor to the Secretary and to the Assistant Secretary for Health and provide advice to the Director of NIH, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs on issues relating to dietary supplements including—

"(i) dietary intake regulations;

"(ii) the safety of dietary supplements;

"(iii) claims characterizing the relationship between dietary supplements and the prevention of disease or other health-related conditions;

"(iv) claims characterizing the relationship between dietary supplements and the maintenance of health; and

"(v) scientific issues arising in connection with the labeling and composition of dietary supplements;

"(D) compile a database of scientific research on dietary supplements and individual nutrients; and

"(E) coordinate funding relating to dietary supplements for the National Institutes of Health.

"(c) BIENNIAL REPORT.—The Director of the Office shall prepare biennial reports on the activities carried out or to be carried out by the Office, and shall submit each such report to the Director of the Center for inclusion in the biennial report under section 485C(i).

"(d) DEFINITION.—For purposes of this section, the term 'dietary supplement' has the meaning given such term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act.".

(b) SAVINGS PROVISIONS.—

(1) NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE.—All officers and employees employed in the Office of Alternative Medicine on the day before the date of the enactment of this Act (pursuant to section 404E of the Public Health Service Act, as in effect on such day) are transferred to the National Center for Complementary and Alternative Medicine. Such transfer does not affect the status of any such officer or employee (except to the extent that the amendments made by subsection (a) affect the authority to make appointments to employment positions). All funds available on such day for such Office are transferred to such Center, and the transfer does not affect the availability of funds for the purposes for which the funds were appropriated (except that such purposes shall apply with respect to the Center to the same extent and in the same manner as the purposes applied with respect to the Office). All other legal rights and duties with respect to the Office are transferred to the Center, and continue in effect in accordance with their terms.

(2) OFFICE OF DIETARY SUPPLEMENTS.—With respect to the Office of Dietary Supplements established in section 485D of the Public Health Service Act (as added by subsection (a)), such establishment shall be construed to constitute a transfer of such Office to the National Center for Complementary and Alternative Medicine from the Office of the Director of the National Institutes of Health (in which the Office of Dietary Supplements was located pursuant to section 485C of the Public Health Service Act, as such section was in effect on the day before the date of the enactment of this Act). Such transfer does not affect the status of any individual as an officer or employee in the Office of Dietary Supplements (except to the extent that the amendments made by subsection (a) affect the authority to make appointments to employment positions), does not affect the availability of funds of the Office for the purposes for which the funds were appropriated, and does not affect any other rights or duties with respect to the Office.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.), as amended by subsection (a), is amended—

(1) in section 401(b)(2), by amending subparagraph (E) to read as follows:

"(E) The National Center for Complementary and Alternative Medicine."; and

(2) in section 402, by redesignating subsections (g) through (k) as subsections (f) through (j), respectively.

DURBIN AMENDMENTS NOS. 1138–1141

(Ordered to lie on the table.)

Mr. DURBIN submitted four amendments intended to be proposed by him to the bill, S. 830, supra; as follows:

AMENDMENT NO. 1138

Strike subsection (c) of section 404 and insert the following:

(c) RULE OF CONSTRUCTION.—Nothing in this Act or any amendment made by this Act shall be construed to alter any authority of the Secretary of Health and Human Services to regulate any tobacco product, or any additive or ingredient of a tobacco product.

AMENDMENT NO. 1139

Strike sections 605 and 606.

AMENDMENT NO. 1140

In section 523 of the Federal Food, Drug, and Cosmetic Act, as added by section 204, strike subsection (b) and insert the following:

"(b) ACCREDITATION.—

"(1) IN GENERAL.—Within 180 days after the date of enactment of this section, the Secretary shall adopt methods of accreditation that ensure that entities or individuals who conduct reviews and make recommendations under this section are qualified, properly trained, knowledgeable about handling confidential documents and information, and free of conflicts of interest.

"(2) STANDARDS.—In adopting the methods of accreditation, the Secretary shall ensure that the entities and individuals—

"(A) are subject to—

"(i) the conflict of interest standards applicable to employees of the Food and Drug Administration under subparts E, H, and I of part 73 of title 45, Code of Federal Regulations (as in effect on January 1, 1996); or

"(ii) if the standards described in clause (i) would be inappropriate for the entities and individuals, conflict of interest standards developed by the Secretary that are—

"(I) based on the standards described in clause (i); and

"(II) modified, as appropriate, to apply to the entities and individuals; and

"(B) are not subject to the conflict of interest standards under supbart J of such part.

"(3) PUBLICATION.—The Secretary shall publish the methods of accreditation in the Federal Register on the adoption of the methods.".

AMENDMENT NO. 1141

At the end of title VIII, add the following:

SEC. ___. NOTIFICATION OF DISCONTINUANCE OF A LIFE SAVING PRODUCT.

Chapter VII (21 U.S.C. 371 et seq.), as amended by section 811, is further amended by adding at the end the following:

"Subchapter H—Notification of the Discontinuance of a Life Saving Product

"SEC. 781. DISCONTINUANCE OF A LIFE SAVING PRODUCT.

"(a) IN GENERAL.—A manufacturer that is the sole manufacturer of a drug (including a biological product) or device—

"(1) that is—

"(A) life supporting;

"(B) life sustaining; or

"(C) intended for use in the prevention of a debilitating disease or condition; and

"(2) for which an application has been approved under section 505(b), 505(j), or 515(d),

shall notify the Secretary of a discontinuance of the manufacture of the drug or device at least 6 months prior to the date of the discontinuance.

"(b) REDUCTION IN NOTIFICATION PERIOD.—On application of a manufacturer, the Secretary may reduce the notification period required under subsection (a) for the manufacturer if good cause exists for the reduction, such as a situation in which—

"(1) a public health problem may result from continuation of the manufacturing for the 6-month period;

"(2) a biomaterials shortage prevents the continuation of the manufacturing for the 6-month period;

"(3) a liability problem may exist for the manufacturer if the manufacturing is continued for the 6-month period;

"(4) continuation of the manufacturing for the 6-month period may cause substantial economic hardship for the manufacturer; or

"(5) the manufacturer has filed for bankruptcy under chapter 7 or 11 of title 11, United States Code.

"(c) DISTRIBUTION.—To the maximum extent practicable, the Secretary shall distribute information on the discontinuation of the drugs and devices described in subsection (a) to appropriate physician and patient organizations.".

KENNEDY AMENDMENTS NOS. 1142–1155

(Ordered to lie on the table.)

Mr. KENNEDY submitted 14 amendments intended to be proposed by him in the bill, S. 830, supra; as follows:

AMENDMENT NO. 1142

Strike section 404.

AMENDMENT NO. 1143

On page 30, strike lines 1 through 16, and insert the following:

(b) PREMARKET NOTIFICATION.—Section 513(i)(1) (21 U.S.C. 360c(i)(1)) is amended by adding at the end the following:

"(C) Whenever the Secretary requests information to demonstrate that the devices with differing technological characteristics are substantially equivalent, the Secretary shall only request information that is necessary to make a substantial equivalence determination. In making such a request, the Secretary shall consider the least burdensome means of demonstrating substantial equivalence and shall request information accordingly.

"(D) The determination of the Secretary under this subsection and section 513(f)(1) with respect to the intended use of a device shall be based on the intended use included in the proposed labeling of the device submitted in a report under section 510(k), except that nothing in this subparagraph may be construed to limit what the Secretary may consider in determining whether a device is substantially equivalent to a predicate device under subparagraph (A)(ii).".

AMENDMENT NO. 1144

On page 30, line 16, after the first period, insert the following: "Nothing in the preceding sentence shall be construed to prohibit the Secretary from determining that a new device is not substantially equivalent to a predicate device because changes in the technological characteristics of the new device demonstrate that the device is intended for a different use than the use stated in the labeling of the device.".

AMENDMENT NO. 1145

On page 30, line 16, insert before the first period the following: "If the proposed labeling is neither false nor misleading".

AMENDMENT NO. 1146

Strike section 406.

AMENDMENT NO. 1147

Amend section 406 to read as follows:

SEC. 406. LIMITATIONS ON INITIAL CLASSIFICATION DETERMINATIONS.

Section 510(21 U.S.C. 360) is amended by adding at the end the following:

"(m) The Secretary may not withhold a determination of the initial classification of a device under section 513(f)(1) because of a failure to comply with any provision of this Act that is unrelated to a substantial equivalence decision, including a failure to comply with the requirements relating to good manufacturing practices under section 520(f), if such failure is unrelated to a substantial equivalence decision.".

AMENDMENT NO. 1148

Amend section 406 to read as follows:

SEC. 406. LIMITATIONS ON INITIAL CLASSIFICATION DETERMINATIONS.

Section 510 (21 U.S.C. 360) is amended by adding at the end the following:

"(m) The Secretary may not withhold a determination of the initial classification of a device under section 513(f)(1) because of a failure to comply with any provision of this Act that is unrelated to a substantial equivalence decision, including a failure to comply with the requirements relating to good manufacturing practices under section 520(f), unless such failure could result in harm to human health.".

AMENDMENT NO. 1149

Strike section 602.

AMENDMENT NO. 1150

Strike section 602 and insert the following:

SEC. 602. ENVIRONMENTAL IMPACT REVIEW.

Chapter VII (21 U.S.C. 371 et seq.), as amended by section 402, is further amended by adding at the end the following:

"SEC. 742. ENVIRONMENTAL IMPACT REVIEW.

"Notwithstanding any other provision of law, an environmental impact statement prepared in accordance with the regulations published in part 25 of title 21, Code of Federal Regulations (as in effect on August 31, 1997) in connection with an action carried out under (or a recommendation or report relating to) this Act, shall be considered to meet the requirements for a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).".

AMENDMENT NO. 1151

On page 26, line 9, strike "1999" and insert "2000".

AMENDMENT NO. 1152

On page 24, line 19, strike "is" and insert "could be".

AMENDMENT NO. 1153

On page 31, strike lines 13 through 15 and insert the following: "a major amendment to an application.".

AMENDMENT NO. 1154

On page 38, line 12, strike "120" and insert "240".

AMENDMENT NO. 1155

On page 43, line 12, strike "30" and insert "180".

WELLSTONE AMENDMENTS NOS. 1156–1159

(Ordered to lie on the table.)

Mr. WELLSTONE submitted four amendments intended to be proposed by him to the bill, S. 830, supra; as follows:

AMENDMENT NO. 1156

Strike section 612 and insert the following:

SEC. 612. HEALTH CARE ECONOMIC INFORMATION.

(a) IN GENERAL.—Section 502(a) (21 U.S.C. 352(a)) is amended by adding at the end the following: "Health care economic information provided to a formulary committee, or other similar entity, in the course of the committee or the entity carrying out its responsibilities for the selection of drugs for managed care or other similar organizations, shall not be considered to be false or misleading if the health care economic information directly relates to an indication approved under section 505 or 507 or section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) for such drug and is based on competent and reliable scientific evidence. The requirements set forth in section 505(a), 507, or section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) shall not apply to health care economic information provided to such a committee or entity in accordance with this paragraph. Information that is relevant to the substantiation of the health care economic information presented pursuant to this paragraph shall be made available to the Secretary upon request. In this paragraph, the term 'health care economic information' means any analysis that identifies, measures, or compares the economic consequences, including the costs of the represented health outcomes, of the use of a drug to the use of another drug, to another health care intervention, or to no intervention.".

(b) STUDY AND REPORT.—The Comptroller General of the United States shall conduct a study of the implementation of the provisions added by the amendment made by subsection (a). Not later than 4 years and 6 months after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit to Congress a report containing the findings of the study.

AMENDMENT NO. 1157

Strike section 602.

AMENDMENT NO. 1158

At the appropriate place, insert the following:

SEC. . PARKINSON'S DISEASE RESEARCH.

(a) SHORT TITLE.—This section may be cited as the "Morris K. Udall Parkinson's Research Act of 1997".

(b) FINDINGS AND PURPOSE.—

(1) FINDING.—Congress finds that to take full advantage of the tremendous potential for finding a cure or effective treatment, the Federal investment in Parkinson's must be expanded, as well as the coordination strengthened among the National Institutes of Health research institutes.

(2) PURPOSE.—It is the purpose of this Section to provide for the expansion and coordination of research regarding Parkinson's, and to improve care and assistance for afflicted individuals and their family caregivers.

(c) PARKINSON'S RESEARCH.—Part B of title IV of the public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

"PARKINSON'S DISEASE

"Sec. 409B. (a) IN GENERAL. —The Director of NIH shall establish a program for the conduct and support of research and training with respect to Parkinson's disease with funding for such program allocated to the extent authorized.

"(b) INTER-INSTITUTE COORDINATION.—

"(1) IN GENERAL.—The Director of NIH shall provide for the coordination of the program established under subsection (a) among all of the national research institutes conducting Parkinson's research.

"(2) CONFERENCE.—Coordination under paragraph (1) shall include the convening of a research planning conference not less frequently than once every 2 years. Each such conference shall prepare and submit to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Commerce of the House of Representatives a report concerning the conference.

"(c) MORRIS K. UDALL RESEARCH CENTERS.—

"(1) IN GENERAL.—The Director of NIH shall award Core Center Grants to encourage the development of innovative multidisciplinary research and provide training concerning Parkinson's. The Director shall award not more than 10 Core Center Grants and designate each center funded under such grants as a Morris K. Udall Center for Research on Parkinson's Disease.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—With respect to Parkinson's, each center assisted under this subsection shall—

"(i) use the facilities of a single institution or a consortium of cooperating institutions, and meet such qualifications as may be prescribed by the Director of the NIH; and

"(ii) conduct basic and clinical research.

"(B) DISCRETIONARY REQUIREMENTS.—With respect to Parkinson's, each center assisted under this subsection may—

"(i) conduct training programs for scientists and health professionals;

"(ii) conduct programs to provide information and continuing education to health professionals;

"(iii) conduct programs for the dissemination of information to the public;

"(iv) develop and maintain, where appropriate, a bank to collect specimens related to the research and treatment of Parkinson's;

"(v) separately or in collaboration with other centers, establish a nationwide data system derived from patient populations with Parkinson's, and where possible, comparing relevant data involving general populations;

"(vi) separately or in collaboration with other centers, establish a Parkinson's Disease Information Clearinghouse to facilitate and enhance knowledge and understanding of Parkinson's disease; and

"(vii) separately or in collaboration with other centers, establish a national education program that fosters a national focus on Parkinson's and the care of those with Parkinson's.

"(3) STIPENDS REGARDING TRAINING PROGRAMS.—A center may use funds provided under paragraph (1) to provide stipends for scientists and health professionals enrolled in training programs under paragraph (2)(B).

"(4) DURATION OF SUPPORT.—Support of a center under this subsection may be for a period not exceeding five years. Such period may be extended by the Director of NIH for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"(d) MORRIS K. UDALL AWARDS FOR EXCELLENCE IN PARKINSON'S DISEASE RESEARCH.—The Director of NIH shall establish a grant program to support investigators with a

proven record of excellence and innovation in Parkinson's research and who demonstrate potential for significant future breakthroughs in the understanding of the pathogenesis, diagnosis, and treatment of Parkinson's. Grants under this subsection shall be available for a period of not to exceed 5 years.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $100,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 and 2000.".

AMENDMENT NO. 1159

In section 613, strike subsection (b) and insert the following:

(b) CIVIL MONEY PENALTIES.—Section 303(g)(1) (21 U.S.C. 333(g)(1)) is amended—

(1) in subparagraph (A), by inserting "or a requirement of section 561 that relates to conducting post-approval studies for fast track drugs" after "devices"; and

(2) by adding at the end the following:

"(C) The Secretary may waive the application of subparagraph (A) to a person who fails to conduct post-approval studies for fast track drugs, as required in section 561, if the Secretary determines that the failure was due to circumstances beyond the control of the person, or for other good cause.".

(c) GUIDANCE.—Within 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance for fast track drugs that describes the policies and procedures that pertain to section 561 of the Federal Food, Drug, and Cosmetic Act.

MURRAY AMENDMENTS NOS. 1160–1161

(Ordered to lie on the table.)

Mrs. MURRAY submitted two amendments intended to be proposed by her to the bill, S. 830, supra; as follows:

AMENDMENT NO. 1160

On page 118, strike lines 6 through 10, and insert the following:

"(2) would not cause any drug to be in violation of any applicable requirement or prohibition under Federal law;

"(3) would not unduly burden interstate commerce; or

"(4) provides that the label or labeling of a drug shall include written information, or a symbol, to warn or educate children and the parents of the children with respect to any harm that may result from the use of the drug by the children."

AMENDMENT NO. 1161

Beginning on page 117, strike line 24 and all that follows through page 118, line 10, and insert the following:

"(b) EXEMPTION.—

"(1) IN GENERAL.—Upon application of a State or political subdivision thereof, the Secretary may by regulation, after notice and opportunity for written and oral presentation of views, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a State or political subdivision requirement that—

"(A) protects an important public interest that would otherwise be unprotected, including the health and safety of children;

"(B) would not cause any drug to be in violation of any applicable requirement or prohibition under Federal law; and

"(C) would not unduly burden interstate commerce.

"(2) TIMELY ACTION.—The Secretary shall make a decision on the exemption of a State or political subdivision requirement under paragraph (1) not later than 120 days after receiving the application of the State or political subdivision under paragraph (1)."

BIDEN AMENDMENTS NOS. 1162–1167

(Ordered to lie on the table.)

Mr. BIDEN submitted six amendments intended to be proposed by him to the bill, S. 830, supra; as follows:

AMENDMENT NO. 1162

At the appropriate place in title VIII, insert the following:

SEC. . REAUTHORIZATION FOR MEDICATION DEVELOPMENT PROGRAM.

Section 464P(e) of the Public Health Service Act (42 U.S.C. 285o–4(e)) is amended to read as follows:

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002 of which the following amount may be appropriated from the Violent Crime Reduction Trust Fund:

"(1) $100,000,000 for fiscal year 2001; and

"(2) $100,000,000 for fiscal year 2002.".

AMENDMENT NO. 1163

At the appropriate place insert the following:

TITLE —PATENT PROTECTIONS FOR PHARMACOTHERAPIES

SEC. 01. RECOMMENDATION FOR INVESTIGATION OF DRUGS.

Section 525(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360aa(a)) is amended—

(1) by striking "States" each place it appears and inserting "States, or for treatment of an addiction to illegal drugs"; and

(2) by striking "such disease or condition" each place it appears and inserting "such disease, condition, or treatment of such addiction".

SEC. 02. DESIGNATION OF DRUGS.

Section 526(a) of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)) is amended—

(1) in paragraph (1)—

(A) by inserting before the period in the first sentence the following: "or for treatment of an addiction to illegal drugs";

(B) in the third sentence, by striking "rare disease or condition" and inserting "rare disease or condition, or for treatment of an addiction to illegal drugs,"; and

(C) by striking "such disease or condition" each place it appears and inserting "such disease, condition, or treatment of such addiction"; and

(2) in paragraph (2)—

(A) by striking "(2) For" and inserting "(2)(A) For";

(B) by striking "(A) affects" and inserting "(i) affects";

(C) by striking "(B) affects" and inserting "(ii) affects"; and

(D) by adding at the end the following:

"(B) TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.—The term 'treatment of an addiction to illegal drugs' means any pharmacological agent or medication that—

"(i) reduces the craving for an illegal drug for an individual who—

"(I) habitually uses the illegal drug in a manner that endangers the public health, safety, or welfare; or

"(II) is so addicted to the use of the illegal drug that the individual is not able to control the addiction through the exercise of self-control;

"(ii) blocks the behavioral and physiological effects of an illegal drug for an individual described in clause (i);

"(iii) safely serves as a replacement therapy for the treatment of drug abuse for an individual described in clause (i);

"(iv) moderates or eliminates the process of withdrawal for an individual described in clause (i);

"(v) blocks or reverses the toxic effect of an illegal drug on an individual described in clause (i); or

"(vi) prevents, where possible, the initiation of drug abuse in individuals at high risk.

"(C) ILLEGAL DRUG.—The term 'illegal drug' means a controlled substance identified under schedules I, II, III, IV, and V in section 202(c) of the Controlled Substance Act (21 U.S.C. 812(c)).".

SEC. 03. PROTECTION FOR DRUGS.

Section 527 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) is amended—

(1) by striking "rare disease or condition' each place it appears and inserting "rare disease or condition or for treatment of an addiction to illegal drugs";

(2) by striking "such disease or condition" each place it appears and inserting "such disease, condition, or treatment of the addiction"; and

(3) in subsection (b)(1), by striking "the disease or condition" and inserting "the disease, condition, or addiction".

SEC. 04. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS.

Section 528 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360dd) is amended—

(1) by striking "rare disease or condition" and inserting "rare disease or condition or for treatment of an addiction to illegal drugs"; and

(2) by striking "the disease or condition" each place it appears and inserting "the disease, condition, or addiction".

AMENDMENT NO. 1164

At the appropriate place in title VIII, insert the following:

SEC. . DEVELOPMENT, MANUFACTURE, AND PROCUREMENT OF DRUGS FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS.

Chapter V (21 U.S.C. 351 et seq.), as amended by sections 102 and 613(a), is further amended by adding at the end the following:

"Subchapter F—Drugs for Cocaine and Heroin Addictions

"SEC. 571. CRITERIA FOR AN ACCEPTABLE DRUG TREATMENT FOR COCAINE AND HEROIN ADDICTIONS.

"(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall, through the Institute of Medicine of the National Academy of Sciences, establish criteria for an acceptable drug for the treatment of an addiction to cocaine and for an acceptable drug for the treatment of an addiction to heroin. The criteria shall be used by the Secretary in making a contract, or entering into a licensing agreement, under section 572.

"(b) REQUIREMENTS.—The criteria established under subsection (a) for a drug shall include requirements—

"(1) that the application to use the drug for the treatment of addiction to cocaine or heroin was filed and approved by the Secretary under this Act after the date of enactment of this section;

"(2) that a performance based test on the drug—

"(A) has been conducted through the use of a randomly selected test group that received

the drug as a treatment and a randomly selected control group that received a placebo; and

"(B) has compared the long term differences in the addiction levels of control group participants and test group participants;

"(3) that the performance based test conducted under paragraph (2) demonstrates that the drug is effective through evidence that—

"(A) a significant number of the participants in the test who have an addiction to cocaine or heroin are willing to take the drug for the addiction;

"(B) a significant number of the participants in the test who have an addiction to cocaine or heroin and who were provided the drug for the addiction during the test are willing to continue taking the drug as long as necessary for the treatment of the addiction; and

"(C) a significant number of the participants in the test who were provided the drug for the period of time required for the treatment of the addiction refrained from the use of cocaine or heroin for a period of 3 years after the date of the initial administration of the drug on the participants; and

"(4) that the drug shall have a reasonable cost of production.

"(c) REVIEW AND PUBLICATION OF CRITERIA.—The criteria established under subsection (a) shall, prior to the publication and application of such criteria, be submitted for review to the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives, and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate. Not later than 90 days after notifying each of the committees, the Secretary shall publish the criteria in the Federal Register.

"SEC. 572. PURCHASE OF PATENT RIGHTS FOR DRUG DEVELOPMENT.

"(a) APPLICATION.—

"(1) IN GENERAL.—The patent owner of a drug to treat an addiction to cocaine or heroin, may submit an application to the Secretary—

"(A) to enter into a contract with the Secretary to sell to the Secretary the patent rights of the owner relating to the drug; or

"(B) in the case in which the drug is approved by the Secretary for more than 1 indication, to enter into an exclusive licensing agreement with the Secretary for the manufacture and distribution of the drug to treat an addiction to cocaine or heroin.

"(2) REQUIREMENTS.—An application described in paragraph (1) shall be submitted at such time and in such manner, and accompanied by such information, as the Secretary may require.

"(b) CONTRACT AND LICENSING AGREEMENTS.—

"(1) REQUIREMENTS.—The Secretary may enter into a contract or a licensing agreement with a patent owner who has submitted an application in accordance with (a) if the drug covered under the contract or licensing agreement meets the criteria established by the Secretary under section 571(a).

"(2) SPECIAL RULE.—The Secretary may enter into—

"(A) not more than 1 contract or exclusive licensing agreement relating to a drug for the treatment of an addiction to cocaine; and

"(B) not more than 1 contract or licensing agreement relating to a drug for the treatment of an addiction to heroin.

"(3) COVERAGE.—A contract or licensing agreement described in subparagraph (A) or (B) of paragraph (2) shall cover not more than 1 drug.

"(4) PURCHASE AMOUNT.—Subject to amounts provided in advance in appropriations Acts—

"(A) the amount to be paid to a patent owner who has entered into a contract or licensing agreement under this subsection relating to a drug to treat an addiction to cocaine shall not exceed $100,000,000; and

"(B) the amount to be paid to a patent owner who has entered into a contract or licensing agreement under this subsection relating to a drug to treat an addiction to heroin shall not exceed $50,000,000.

"(c) TRANSFER OF RIGHTS UNDER CONTRACTS AND LICENSING AGREEMENT.—

"(1) CONTRACTS.—A contract under subsection (b)(1) to purchase the patent rights relating to a drug to treat cocaine or heroin addiction shall transfer to the Secretary—

"(A) the exclusive right to make, use, or sell the patented drug within the United States for the term of the patent;

"(B) any foreign patent rights held by the patent owner;

"(C) any patent rights relating to the process of manufacturing the drug; and

"(D) any trade secret or confidential business information relating to the development of the drug, process for manufacturing the drug, and therapeutic effects of the drug.

"(2) LICENSING AGREEMENTS.—A licensing agreement under subsection (b)(1) to purchase an exclusive license relating to manufacture and distribution of a drug to treat an addiction to cocaine or heroin shall transfer to the Secretary—

"(A) the exclusive right to make, use, or sell the patented drug for the purpose of treating an addiction to cocaine or heroin within the United States for the term of the patent;

"(B) the right to use any patented processes relating to manufacturing the drug; and

"(C) any trade secret or confidential business information relating to the development of the drug, process for manufacturing the drug, and therapeutic effects of the drug relating to use of the drug to treat an addiction to cocaine or heroin.

"SEC. 573. PLAN FOR MANUFACTURE AND DEVELOPMENT.

"(a) IN GENERAL.—Not later than 90 days after the date on which the Secretary purchases the patent rights of a patent owner, or enters into a licensing agreement with a patent owner, relating to a drug under section 571, the Secretary shall develop a plan for the manufacture and distribution of the drug.

"(b) PLAN REQUIREMENTS.—The plan shall set forth—

"(1) procedures for the Secretary to enter into licensing agreements with private entities for the manufacture and the distribution of the drug;

"(2) procedures for making the drug available to nonprofit entities and private entities to use in the treatment of a cocaine or heroin addiction;

"(3) a system to establish the sale price for the drug; and

"(4) policies and procedures with respect to the use of Federal funds by State and local governments or nonprofit entities to purchase the drug from the Secretary.

"(c) APPLICABILITY OF PROCUREMENT AND LICENSING LAWS.—The procurement and licensing laws of the United States shall be applicable to procurements and licenses covered under the plan described in subsection (a).

"(d) REVIEW OF PLAN.—

"(1) IN GENERAL.—Upon completion of the plan under subsection (a), the Secretary shall notify the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives, and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate, of the development of the plan and publish the plan in the Federal Register. The Secretary shall provide an opportunity for public comment on the plan for a period of not more than 30 days after the date of the publication of the plan in the Federal Register.

"(2) FINAL PLAN.—Not later than 60 days after the date of the expiration of the comment period described in paragraph (1), the Secretary shall publish in the Federal Register a final plan. The implementation of the plan shall begin on the date of the final publication of the plan.

"(e) CONSTRUCTION.—The development, publication, or implementation of the plan, or any other agency action with respect to the plan, shall not be considered agency action subject to judicial review.

"(f) REGULATIONS.—The Secretary may promulgate regulations to carry out this section.

"SEC. 574. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1998 through 2000.".

AMENDMENT NO. 1165

At the end of title VIII, add the following:

SEC. 8 . AUTHORITY TO RESCHEDULE CERTAIN CONTROLLED SUBSTANCES POSING IMMINENT HAZARD TO PUBLIC SAFETY.

Section 201(h) of the Controlled Substances Act (21 U.S.C. 811(h)) is amended—

(1) in paragraph (1)—

(A) by inserting ", or the rescheduling of a scheduled substance," after "the scheduling of a substance"; and

(B) by striking "if the substance is not listed in any other schedule in section 202 or"; and

(2) in paragraph (2), by inserting "or rescheduling" after "scheduling" each place that term appears.

AMENDMENT NO. 1166

At the end of title VIII, add the following:

SEC. 8 . CLASSIFICATION OF KETAMINE HYDROCHLORIDE.

Notwithstanding section 201 or subsection (a) or (b) of section 202 of the Controlled Substances Act (21 U.S.C. 811, 812(a), 812(b)) respecting the scheduling of controlled substances, the Attorney General shall, by order, add ketamine hydrochloride to schedule III of such Act.

AMENDMENT NO. 1167

At the end of title VIII, add the following:

SEC. 8 . RESCHEDULING OF ROHYPNOL.

Notwithstanding section 201 or subsection (a) or (b) of section 202 of the Controlled Substances Act (21 U.S.C. 811, 812(a), 812(b)) respecting the scheduling of controlled substances, the Attorney General shall, by order, transfer flunitrazepam from schedule IV of such Act to schedule I of such Act.

BREAUX AMENDMENT NO. 1168

(Ordered to lie on the table.)

Mr. BREAUX submitted an amendment intended to be proposed by him to the bill, S. 830, supra; as follows:

At the appropriate place, add the following:

TITLE ___—COMMISSION

SEC. ___1. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—There is established a Drug and Device Review Advisory Commission (referred to in this title as the "Commission"), to conduct a study and prepare recommendations concerning the determinations and administrative processes of the Food and Drug Administration.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 11 members, including—

(A) 5 individuals appointed by the President;

(B) 3 individuals appointed jointly by the President pro tempore of the Senate and the majority and minority leaders of the Senate; and

(C) 3 individuals appointed jointly by the Speaker of the House of Representatives and the majority and minority leaders of the House of Representatives.

(2) QUALIFICATIONS.—

(A) DRUG AND DEVICE MANUFACTURERS.—Two of the members appointed under paragraph (1)(A), one of the members appointed under paragraph (1)(B), and one of the members appointed under paragraph (1)(C), shall be manufacturers of drugs or devices (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)).

(B) MEDICAL PROFESSIONALS.—Two of the members appointed under paragraph (1)(A), one of the members appointed under paragraph (1)(B), and one of the members appointed under paragraph (1)(C), shall be health personnel described in section 792(a) of the Public Health Service Act (42 U.S.C. 295k(a)).

(C) GENERAL PUBLIC.—One of the members appointed under paragraph (1)(A), one of the members appointed under paragraph (1)(B), and one of the members appointed under paragraph (1)(C), shall be members of the general public.

(3) APPOINTMENT.—The members of the Commission shall be appointed not later than 60 days after the date of enactment of this Act.

(c) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

(d) TERM OF OFFICE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a member of the Commission shall be appointed for a term of 5 years.

(2) INITIAL MEMBERS.—Of the members first appointed—

(A) 2 shall be appointed for terms of 1 year;

(B) 2 shall be appointed for terms of 2 years;

(C) 2 shall be appointed for terms of 3 years;

(D) 2 shall be appointed for terms of 4 years; and

(E) 3 shall be appointed for terms of 5 years.

(3) SCHEDULE.—The appointing individuals described in subsection (b)(1) shall jointly determine a schedule for the appointment of members of the Commission that ensures that, in any year—

(A) no appointing individual appoints more than 1 member; and

(B) the appointing individuals appoint not more than 1 member from any class of persons described in subparagraph (A), (B), or (C) of subsection (b)(2).

(e) VACANCIES.—Any vacancy occurring in the membership of the Commission shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(f) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission who is not an employee of the Federal Government shall receive compensation at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Commission, including attendance at meetings and conferences of the Commission, and travel to conduct the duties of the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive 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, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

SEC. ___2. STUDY AND REPORT.

(a) STUDY.—The Commission shall annually conduct a study of the determinations and administrative processes of the Food and Drug Administration.

(b) REPORT.—Not later than 15 months after the date of the enactment of this Act, and annually thereafter, the Commission shall prepare and submit to the President and the appropriate committees of Congress a written report containing—

(1) the findings and conclusions of the Commission resulting from the study conducted under subsection (a); and

(2) recommendations, based on the findings and conclusions described in paragraph (1), for improvements in the efficiency and administrative processes of the Food and Drug Administration.

SEC. ___3. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission is authorized to—

(1) hold such hearings and sit and act at such times;

(2) take such testimony;

(3) have such printing and binding done;

(4) enter into such contracts and other arrangements;

(5) make such expenditures; and

(6) take such other actions;

as the Commission may determine to be necessary to carry out the duties of the Commission.

(b) OBTAINING INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency such information as the Commission may require to carry out its duties.

(c) USE OF MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies.

SEC. ___4. STAFF AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Commission may appoint and determine the compensation of such staff as the Commission determines to be necessary to carry out the duties of the Commission.

(2) LIMITATIONS.—The rate of compensation for each staff member shall not exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code for each day the staff member is engaged in the performance of duties for the Commission. The Commission may otherwise appoint and determine the compensation of staff without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, that relate to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—The Chairperson of the Commission may obtain such temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(c) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Chairperson of the Commission, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the Commission to assist the Commission in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(d) TECHNICAL ASSISTANCE.—On the request of the Chairperson of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

SEC. ___5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the provisions of this title. The sums shall remain available until expended, without fiscal year limitation.

SEC. ___6. TERMINATION.

Section 15 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

REED AMENDMENTS NOS. 1169–1170

(Ordered to lie on the table.)

Mr. REED submitted two amendments intended to be proposed by him to the bill, S. 830, supra; as follows:

AMENDMENT NO. 1169

Strike section 404.

AMENDMENT NO. 1170

On page 30, strike lines 1 through 16, and insert the following:

(b) PREMARKET NOTIFICATIONS.—Section 513(i)(1) (21 U.S.C. 360c(i)(1)) is amended by adding at the end the following:

"(C) Whenever the Secretary requests information to demonstrate that the devices with differing technological characteristics are substantially equivalent, the Secretary shall only request information that is necessary to make a substantial equivalence determination. In making such a request, the Secretary shall consider the least burdensome means of demonstrating substantial equivalence and shall request information accordingly.

"(D) The determination of the Secretary under this subsection and section 513(f)(1) with respect to the intended use of a device shall be based on the intended use included in the proposed labeling of the device submitted in a report under section 510(k), except that nothing in this subparagraph may be construed to limit what the Secretary may consider in determining whether a device is substantially equivalent to a predicate device under subparagraph (A)(ii).".

HARKIN AMENDMENT NO. 1171

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to the bill, S. 830, supra; as follows:

AMENDMENT NO. 1171

At the end of title VIII, add the following:

SEC. . ELECTRONIC PASTEURIZATION.

(a) DEFINITION.—In this section, the term "electronic pasteurization" means exposure of a food to en electron beam, or to an x-ray produced from an energy source generated by electricity.

(b) REGULATION.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue a final rule amending the regulation issued under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) relating to labeling requirements applicable to the use of ionizing radiation for the treatment of food.

(2) PROVISION.—The amended regulation shall provide that a food that has been treated by electronic pasteurization and has not been irradiated by a radioactive isotope source—

(A) shall not be considered to violate the labeling requirements solely because the labeling and other identifying materials associated with the food fail to identify the food as having been treated with radiation or treated by irradiation; and

(B) shall be considered to comply with the labeling requirements if the labeling and other identifying materials identify the food as electronically pasteurized or having been treated with electronic pasteurization.

COATS AMENDMENT NO. 1172

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to the bill, S. 830, supra; as follows:

At the appropriate place, insert the following:

SEC. . EXAMINATIONS AND PROCEDURES.—Paragraph 353(d)(3) of the Public Health Service Act (42 U.S.C. 263a(d)(3)) is amended—

(1) by striking ", including those which" and by inserting in its place ". The following three types of examinations and procedures shall each be deemed to meet the standards in the preceding sentence";

(2) in subparagraph (A), by inserting at the end thereof "even if FDA places limits on the sale of the devices associated with such examinations or procedures (e.g., prescription status), or"; and

(3) in subparagraph (B), by inserting "by the user" before "negligible".

JEFFORDS AMENDMENTS NOS. 1173–1175

(Ordered to lie on the table.)

Mr. JEFFORDS submitted three amendments intended to be proposed by him to the bill, S. 830, supra; as follows:

AMENDMENT NO. 1173

Strike section 619 and insert the following:

SEC. 619. POSITRON EMISSION TOMOGRAPHY.

(a) REGULATION OF COMPOUNDED POSITRON EMISSION TOMOGRAPHY DRUGS UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—

(1) DEFINITION.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(ii) The term 'compounded positron emission tomography drug'—

"(1) means a drug that—

"(A) exhibits spontaneous disintegration of unstable nuclei by the emission of positrons and is used for the purpose of providing dual photon positron emission tomographic diagnostic images; and

"(B) has been compounded by or on the order of a practitioner who is licensed by a State to compound or order compounding for a drug described in subparagraph (A), and is compounded in accordance with that State's law, for a patient or for research, teaching, or quality control; and

"(2) includes any nonradioactive reagent, reagent kit, ingredient, nuclide generator, accelerator, target material, electronic synthesizer, or other apparatus or computer program to be used in the preparation of such a drug.".

(b) ADULTERATION.—

(1) IN GENERAL.—Section 501(a)(2) (21 U.S.C. 351(a)(2)) is amended by striking "; or (3)" and inserting the following: "; or (C) if it is a compounded positron emission tomography drug and the methods used in, or the facilities and controls used for, its compounding, processing, packing, or holding do not conform to or are not operated or administered in conformity with the positron emission tomography compounding standards and the official monographs of the United States Pharmacopeia to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, that it purports or is represented to possess; or (3)".

(2) SUNSET.—Sections 201(ii) and 501(a)(2)(C) (21 U.S.C. 321(ii) and 351(a)(2)(C)) shall not apply 4 years after the date of enactment of this Act or 2 years after the date or which the Secretary of Health and Human Services establishes the requirements described in subsection (c)(1)(B), whichever is later.

(c) REQUIREMENTS FOR REVIEW OF APPROVAL PROCEDURES AND CURRENT GOOD MANUFACTURING PRACTICES FOR POSITRON EMISSION TOMOGRAPHY.—

(1) PROCEDURES AND REQUIREMENTS.—

(A) IN GENERAL.—In order to take account of the special characteristics of positron emission tomography drugs and the special techniques and processes required to produce these drugs, not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall establish—

(i) appropriate procedures for the approval of positron emission tomography drugs pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); and

(ii) appropriate current good manufacturing practice requirements for such drugs.

(B) CONSIDERATIONS AND CONSULTATION.—In establishing the procedures and requirements required by subparagraph (A), the Secretary of Health and Human Services shall take due account of any relevant differences between not-for-profit institutions that compound the drugs for their patients and commercial manufacturers of the drugs. Prior to establishing the procedures and requirements, the Secretary of Health and Human Services shall consult with patient advocacy groups, professional associations, manufacturers, and physicians and scientists licensed to make or use positron emission tomography drugs.

(2) SUBMISSION OF NEW DRUG APPLICATIONS AND ABBREVIATED NEW DRUG APPLICATIONS.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall not require the submission of new drug applications or abbreviated new drug applications under subsection (b) or (j) of section 505 (21 U.S.C. 355), for compounded positron emission tomography drugs that are not adulterated drugs described in section 501(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(C)) (as amended by subsection (b)), for a period of 4 years after the date of enactment of this Act, or for 2 years after the date or which the Secretary establishes procedures and requirements under paragraph (1), whichever is later.

(B) CONSTRUCTION.—Nothing in this Act shall prohibit the voluntary submission of such applications or the review of such applications by the Secretary of Health and Human Services. Nothing in this Act shall constitute an exemption for a positron emission tomography drug from the requirements of regulations issued under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) for such drugs.

(d) REVOCATION OF CERTAIN INCONSISTENT DOCUMENTS.—Within 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register a notice terminating the application of the following notices and rule:

(1) A notice entitled "Regulation of Positron Emission Tomography Radiopharmaceutical Drug Products; Guidance; Public Workshop", published in the Federal Register on February 27, 1995, 60 Fed. Reg. 10594.

(2) A notice entitled "Draft Guideline on the Manufacture of Positron Emission Tomography Radiopharmaceutical Drug Products; Availability", published in the Federal Register on February 27, 1995, 60 Fed. Reg. 10593.

(3) A final rule entitled "Current Good Manufacturing Practice for Finished Pharmaceuticals; Positron Emission Tomography", published in the Federal Register on April 22, 1997, 62 Fed. Reg. 19493 (codified at part 211 of title 21, Code of Federal Regulations).

(e) DEFINITION.—In this section:

(1) COMPOUNDED POSITRON EMISSION TOMOGRAPHY DRUG.—The term "compounded positron emission tomography drug" means a positron emission tomography drug that has been compounded by or on the order of a practitioner who is licensed by a State to compound or order compounding for such a drug, and is compounded in accordance with that State's law, for a patient or for research, teaching, or quality control.

(2) DRUG.—The term "drug" has the meaning given the term in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

(3) POSITRON EMISSION TOMOGRAPHY DRUG.—The term "positron emission tomography drug" means a drug that—

(A) exhibits spontaneous disintegration of unstable nuclei by the emission of positrons and is used for the purpose of providing dual photon positron emission tomographic diagnostic images; and

(B) includes any nonradioactive reagent, reagent kit, ingredient, nuclide generator, accelerator, target material, electronic synthesizer, or other apparatus or computer program to be used in the preparation of such a drug.

AMENDMENT NO. 1174

On page 30, strike lines 17 through 20, and insert the following:

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by subsections (a) and (b)

shall be construed to alter any authority of the Secretary of Health and Human Services to regulate any tobacco product, or any additive or ingredient of a tobacco product.

AMENDMENT NO. 1175

Strike section 602 and insert the following:

SEC. 602. ENVIRONMENTAL IMPACT REVIEW.

Chapter VII (21 U.S.C. 371 et seq.), as amended by section 402, is further amended by adding at the end the following:

"SEC. 742. ENVIRONMENTAL IMPACT REVIEW.

"Notwithstanding any other provision of law, an environmental impact statement prepared in accordance with the regulations published in part 25 of title 21, Code of Federal Regulations (as in effect on August 31, 1997) in connection with an action carried out under (or a recommendation or report relating to) this Act, shall be considered to meet the requirements for a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)).".

REED AMENDMENTS NOS. 1176–1177

(Ordered to lie on the table.)

Mr. REED submitted two amendments intended to be proposed by him to the bill, S. 830, supra; as follows:

AMENDMENT NO. 1176

On page 30, line 16, after the first period, insert the following: "Nothing in the preceding sentence shall be construed to prohibit the Secretary from determining that a new device is not substantially equivalent to a predicate device because changes in the technological characteristics of the new device demonstrate that the device is intended for a different use than the use stated in the labeling of the device.".

AMENDMENT NO. 1177

On page 30, line 16, insert before the first period the following: "if the proposed labeling is neither false nor misleading".

THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

BROWNBACK AMENDMENT NO. 1178

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill (H.R. 2107) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes; as follows:

At the appropriate place in title I, insert the following:

"SEC. 1 . (a) In this section—

(1) the term "Huron Cemetery" means the lands that form the cemetery that is popularly known as the Huron Cemetery, located in Kansas City, Kansas, as described in subsection (b)(4);

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "Wyandot Nation" means the nation of the Wyandot Indians that consists of the descendants of the Wyandott Nation described in the treaty between the United States and the Wyandott Indians, done at Washington on January 31, 1855 (10 Stat. 1159 et seq.), and includes—

(A) the Wyandot Nation of Kansas, Inc.; and

(B) the Wayandotte Tribe of Oklahoma.

(b)(1) Subject to subsection (c), the Secretary shall take such action as may be necessary to ensure that the lands comprising the Huron Cemetery (as described in paragraph (4)) are held in trust for the Wyandot Nation to be used only for a burial ground for the Wyandot Nation in accordance with this subsection.

(2) Subject to subsection (c), the Secretary shall take such action as may be necessary to ensure that the lands of the Huron Cemetery are used only—

(A) for religious and cultural uses of the Wyandot Nation that are compatible with the use of the lands as a cemetery; and

(B) as a burial ground for members of the Wyandot Nation.

(3) In carrying out this subsection, the Secretary shall take such action as may be necessary to ensure that members of the Wyandot Nation of Kansas, Inc. may use the Huron Cemetery for the purposes specified in paragraph (2) on the condition that if space is available in the Huron Cemetery, no member of the Wyandotte Tribe of Oklahoma may be denied the right to be buried in that cemetery.

(4) The description of the lands of the Huron Cemetery is as follows:

The tract of land in the NW ¼ of sec. 10, T. 11 S., R. 25 E., of the sixth principal meridian, in Wyandotte County, Kansas (as surveyed and marked on the ground on August 15, 1888, by William Millor, Civil Engineer and Surveyor), described as follows:

"Commencing on the Northwest corner of the Northwest Quarter of the Northwest Quarter of said Section 10;

"Thence South 28 poles to the 'true point of beginning';

"Thence South 71 degrees East 10 poles and 18 links;

"Thence South 18 degrees and 30 minutes West 28 poles;

"Thence West 11 and one-half poles;

"Thence North 19 degrees 15 minutes East 31 poles and 15 feet to the 'true point of beginning', containing 2 acres or more.".

THE FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNTABILITY ACT OF 1997 PRESCRIPTION DRUG USERS FEE REAUTHORIZATION ACT OF 1997

FEINSTEIN AMENDMENTS NOS. 1179–1181

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted three amendments intended to be proposed by her to the bill, S. 830, supra; as follows:

AMENDMENT NO. 1179

In section 761 of the Federal Food, Drug, and Cosmetic Act, as added by section 807(a), add the following new subsection:

"(g) REGULATIONS.—

"(1) REQUIREMENT.—Not later than 2 years after the date of enactment of the Food and Drug Administration Modernization and Accountability Act of 1997, the Secretary shall promulgate final regulations (after notice and comment) that establish the criteria and conditions under which a State may apply for and receive an exemption under subsection (b).

"(2) EFFECTIVE DATE.—No exemption may be provided under subsection (b) until the date on which the Secretary has promulgated the regulations referred to in paragraph (1).".

AMENDMENT NO. 1180

At the appropriate place in title VIII, insert the following:

SEC. . RULE OF CONSTRUCTION REGARDING STATE LAWS.

Chapter IX (21 U.S.C. 391 et seq.), as amended by section 804, is further amended by adding at the end thereof the following:

"SEC. 908, RULE OF CONSTRUCTION REGARDING STATE LAWS.

"Nothing in this Act shall be construed to prohibit any State or political subdivision from imposing any requirements that are more stringent than those imposed by this Act, including, but not limited to, requirements relating to embargoing products, the licensing and inspection of manufacturers' facilities, advertising, labeling, packaging, the regulation of the quality and nature of ingredients, and the provision of warnings or other communications to protect the public health.".

AMENDMENT NO. 1181

On page 141, after line 24, add the following:

"(8) CONSIDERATION OF INFORMATION AS PUBLIC INFORMATION.—The certification, summary of the proposed protocol, and the schedule for the proposed protocol under this subsection, excluding proprietary information, shall be considered to be public information.

HATCH AMENDMENTS NOS. 1182–1183

(Ordered to lie on the table.)

Mr. HATCH submitted two amendments intended to be proposed by him to the bill, S. 830, supra; as follows:

AMENDMENT NO. 1182

Beginning on page 4, strike line 11 and all that follows through page 5, line 6, and insert the following:

"(1) IN GENERAL.—The Secretary, acting through the Commissioner, in consultation with experts in science, medicine, and public health, and in cooperation with consumers, users, manufacturers, importers, packers, distributors, and retailers of regulated products, shall protect the public health by taking actions that help ensure that:

"(A) foods are safe, wholesome, sanitary, and properly labeled;

"(B) human and veterinary drugs, including biologic, are safe and effective;

"(C) there is reasonable assurance of safety and effectiveness of devices intended for human use;

"(D) cosmetics are safe; and

"(E) public health and safety are protected from electronic product radiation.

"(2) SPECIAL RULES.—The Secretary, acting through the Commissioner, shall promptly and efficiently review clinical research and take appropriate action on the marketing of regulated products in a manner that does not unduly impede innovation or product availability. The Secretary, acting through the Commissioner, shall participate with other countries to reduce the burden of regulation, to harmonize regulatory requirements, and to achieve appropriate reciprocal arrangements with other countries.".

AMENDMENT NO. 1183

At the appropriate place, insert the following:

SEC. . SAFETY REPORT DISCLAIMERS.

Chapter IX (21 U.S.C. 391 et seq.), as amended by section 804, is further amended by adding at the end the following:

"SEC. 908. SAFETY REPORT DISCLAIMERS.

"With respect to any entity that submits or is required to submit a safety report or other information in connection with the safety of a product (including a product which is a food, drug, new drug, device, dietary supplement, or cosmetic) under this Act (and any release by the Secretary of that report of information), such report or information shall not be construed to necessarily reflect a conclusion by the entity or the Secretary that the report or information constitutes an admission that the product involved caused or contributed to an adverse experience, or otherwise caused or contributed to a death, serious injury, serious illness, or malfunction. Such an entity need not admit, and may deny, that the report or information submitted by the entity constitutes an admission that the product involved caused or contributed to an adverse experience or caused or contributed to a death, serious injury, serious illness, or malfunction.".

HUTCHINSON AMENDMENT NO. 1184

(Ordered to lie on the table.)

Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill, S. 830, supra; as follows:

Strike section 809 and insert the following:

SEC. 809. APPLICATION OF FEDERAL LAW TO THE PRACTICE OF PHARMACY COMPOUNDING.

Section 503 (21 U.S.C. 353) is amended by adding at the end the following:

"(h)(1) Sections 501(a)(2)(B), 502(f)(1), 502(l), 505, and 507 shall not apply to a drug product if—

"(A) the drug product is compounded for an identified individual patient, based on a medical need for a compounded product—

"(i) by a licensed pharmacist in a State licensed pharmacy or a Federal facility, or a licensed physician, or the prescription order of a licensed physician or other licensed practitioner authorized by State law to prescribe drugs; or

"(ii) by a licensed pharmacist or licensed physician in limited quantities, prior to the receipt of a valid prescription order for the identified individual patient, and is compounded based on a history of the licensed pharmacist or licensed physician receiving valid prescription orders for the compounding of the drug product that have been generated solely within an established relationship between the licensed pharmacist, or licensed physician, and—

"(I) the individual patient for whom the prescription order will be provided; or

"(II) the physician or other licensed practitioner who will write such prescription order; and

"(B) the licensed pharmacist or licensed physician—

"(i) compounds the drug product using bulk drug substances—

"(I) that—

"(aa) comply with the standards of an applicable United States Pharmacopeia or National Formulary monograph; or

"(bb) in a case in which such a monograph does not exist, are drug substances that are covered by regulations issued by the Secretary under paragraph (3);

"(II) that are manufactured by an establishment that is registered under section 510 (including a foreign establishment that is registered under section 510(i)); and

"(III) that are accompanied by valid certificates of analysis for each bulk drug substance;

"(ii) compounds the drug product using ingredients (other than bulk drug substances) that comply with the standards of an applicable United States Pharmacopeia or National Formulary monograph and the United States Pharmacopeia chapter on pharmacy compounding;

"(iii) only advertises or promotes the compounding service provided by the licensed pharmacist or licensed physician and does not advertise or promote the compounding of any particular drug, class of drug, or type of drug;

"(iv) does not compound a drug product that appears on a list published by the Secretary in the Federal Register of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective;

"(iv) does not compound a drug product that is identified by the Secretary in regulation as presenting demonstrable difficulties for compounding that reasonably demonstrate an adverse effect on the safety or effectiveness of that drug product; and

"(vi) does not distribute compounded drugs outside of the State in which the drugs are compounded, unless the principal State agency of jurisdiction that regulates the practice of pharmacy in such State has entered into a memorandum of understanding with the Secretary regarding the regulation of drugs that are compounded in the State and are distributed outside of the State, that provides for appropriate investigation by the State agency of complaints relating to compounded products distributed outside of the State.

"(2)(A) The Secretary shall, after consultation with the National Association of Boards of Pharmacy, develop a standard memorandum of understanding for use by States in complying with paragraph (1)(B)(vi).

"(B) Paragraph (1)(B)(vi) shall not apply to a licensed pharmacist or licensed physician, who does not distribute inordinate amounts of compounded products outside of the State, until—

"(i) the date that is 180 days after the development of the standard memorandum of understanding; or

"(ii) the date on which the State agency enters into a memorandum of understanding under paragraph (1)(B)(vi),

whichever occurs first.

"(3) The Secretary, after consultation with the United States Pharmacopeia Convention Incorporated, shall promulgate regulations limiting compounding under paragraph (1)(B)(i)(I)(bb) to drug substances that are components of drug products approved by the Secretary and to other drug substances as the Secretary may identify.

"(4) The provisions of paragraph (1) shall not apply—

"(A) to compounded positron emission tomography drugs as defined in section 201(ii); or

"(B) to radiopharmaceuticals.

"(5) In this subsection, the term 'compound' does not include to mix, reconstitute, or perform another similar act, in accordance with directions contained in approved drug labeling provided by a drug manufacturer.".

THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

BROWNBACK AMENDMENT NO. 1185

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill, H.R. 2107, supra; as follows:

At the appropriate place in title I, insert the following:

"SEC. 1 . (a) In this section—

(1) the term "Huron Cemetery" means the lands that form the cemetery that is popularly known as the Huron Cemetery, located in Kansas City, Kansas, as described in subsection (b)(4);

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "Wyandot Nation" means the nation of the Wyandot Indians that consists of the descendants of the Wyandott nation described in the treaty between the United States and the Wyandott Indians, done at Washington on January 31, 1855 (10 Stat. 1159 et seq.), and includes—

(A) the Wyandot Nation of Kansas, Inc.; and

(B) the Wyandotte Tribe of Oklahoma.

(b)(1) Subject to subsection (c), the Secretary shall take such action as may be necessary to ensure that the lands comprising the Huron Cemetery (as described in paragraph (4)) are held in trust for the Wyandot Nation to be used only for a burial ground for the Wyandot Nation in accordance with this subsection.

(2) Subject to subsection (c), the Secretary shall take such action as may be necessary to ensure that the lands of the Huron Cemetery are used only—

(A) for religious and cultural uses of the Wyandot Nation that are compatible with the use of the lands as a cemetery; and

(B) as a burial ground for members of the Wyandot Nation.

In carrying out this subsection, the Secretary shall take such action as may be necessary to ensure that members of the Wyandot Nation of Kansas, Inc. may use the Huron Cemetery for the purposes specified in paragraph (2) on the condition that if space is available in the Huron Cemetery, no member of the Wyandotte Tribe of Oklahoma may be denied the right to be buried in that cemetery.

(4) The description of the lands of the Huron Cemetery is as follows:

The tract of land in the NW ¼ of sec. 10, T. 11 S., R. 25 E., of the sixth principal meridian, in Wyandotte County, Kansas (as surveyed and marked on the ground on August 15, 1888, by William Millor, Civil Engineer and Surveyor), described as follows:

"Commencing on the Northwest corner of the Northwest Quarter of the Northwest Quarter of said Section 10;

"Thence South 28 poles to the 'true point of beginning';

"Thence South 71 degrees East 10 poles and 18 links;

"Thence South 18 degrees and 30 minutes West 28 poles;

"Thence West 11 and one-half poles;

"Thence North 19 degrees 15 minutes East 31 poles and 15 feet to the 'true point of beginning', containing 2 acres or more.".

(c) Nothing is this section is intended to modify or supersede the agreement that the United States entered into on March 20, 1918, with the City of Kansas City, Kansas, for the maintenance of the Huron Cemetery.

HUTCHISON AMENDMENT NO. 1186

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill, H.R. 2107, supra; as follows:

Beginning on page 96, strike line 14 and all that follows through line 8 on page 97, and insert the following:

(a) FUNDING.—For necessary expenses of the National Endowment for the Arts, $100,060,000 to be used in accordance with this section.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Of the amount appropriated under subsection (a), the Chairman of the National Endowment for the Arts shall use—

(A) not less than 75 percent of such amount to make block grants to State under subsection (c);

(B) not less than 20 percent of such amount to make grants to national groups or institutions under subsection (d); and

(C) not more than 5 percent for the administrative costs of carrying out this section, including any costs associated with the reduction in the operations of the National Endowment for the Arts.

(2) LIMITATION ON ADMINISTRATIVE COSTS.—With respect to the budget authority provided for in this section, not more than $1,525,915 shall be available for obligation with respect to the administrative costs described in paragraph (1)(C) prior to September 30, 1998.

(c) BLOCK GRANTS TO STATES OR TERRITORIES.—

(1) In general.—The Secretary shall award block grants to States under this subsection to support the arts.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, a State or Territory shall prepare and submit to the Chairman an application, at such time, in such manner, and containing such information as the Chairman may require, including an assurance that no funds received under the grant will be used to fund programs that are determined to be obscene.

(3) AMOUNT OF GRANT.—

(A) IN GENERAL.—Of the amount available for grants under this subsection, the Chairman shall allot to each State (including the District of Columbia) or Territory an amount equal to—

(i) with respect to a State, the amount under subparagraph (B); and

(ii) with respect to a territory, the amount determined under subparagraph (C).

(B) FORMULA.—The amount determined under this subparagraph with respect to a State (or the District of Columbia) shall be equal to—

(i) subject to subparagraph (D), the aggregate of the amounts provided by the National Endowment for the Arts to the State (or District), and the groups and institutions in the State (or District), in fiscal year 1997; and

(ii) an amount that bears the same relationship to the amounts remaining available for allotment for the fiscal year involved after the amounts are determined under clause (i), as the percentage of the population of the State (or District) bears to the total population of all States and the District.

(C) TERRITORIES.—The amount determined under this subparagraph with respect to a territory shall be equal to the aggregate of the amounts provided by the National Endowment for the Arts to the territory, and the groups and institutions in the territory, in fiscal year 1997.

(D) LIMITATION.—Notwithstanding the formula described in subparagraph (B), the allotment for a State (or the District of Columbia) under clause (i) of such subparagraph shall not exceed an amount equal to 6.6 percent of the total amount provided by the National Endowment for the Arts to States and the District of Columbia in fiscal year 1997.

(4) LIMITATION ON OBLIGATION OF FUNDS.—With respect to the budget authority provided for in this section, not more than $22,888,725 shall be available for obligation with respect to block grants under this subsection prior to September 30, 1998.

(5) USE OF FUNDS.—

(A) IN GENERAL.—A State or territory shall use funds provided under a grant under this subsection to carry out activities to support the arts in the State or territory.

(B) ENDOWMENT INCENTIVE.—A State or territory may use not to exceed 25 percent of the funds provided under a grant under this subsection to establish a permanent arts endowment in the State or territory. A State or territory that uses funds under this subparagraph to establish a State endowment shall contribute non-Federal funds to such endowment in an amount equal to not less than the amount of Federal funds provided to the endowment.

(C) LIMITATION.—A State (or territory) may not use in excess of 15 percent of the amount received under this section in any fiscal year for administrative purposes.

(d) NATIONAL GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants to nationally prominent groups or institutions under this subsection to support the arts.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, an entity shall prepare and submit to the Chairman an application, at such time, in such manner, and containing such information as the Chairman may require, including an assurance that no funds received under this subsection will be used—

(A) to fund programs that are determined to be obscene;

(B) for seasonal grants; or

(C) for subgrants.

(3) LIMITATION ON AMOUNT OF GRANT.—The amount of a grant awarded to any group or institution to carry out a project under this section shall not exceed—

(A) with respect to a group or institution with an annual budget of not to exceed $3,000,000, an amount equal to not more than 33.5 percent of the total project cost; and

(B) with respect to a group or institution with an annual budget of not less than $3,000,000, an amount equal to not more than 20 percent of the total project cost.

(4) LIMITATION ON OBLIGATION OF FUNDS.—With respect to the budget authority provided for in this section, not more than $6,103,660 shall be available for obligation with respect to grants under this subsection prior to September 30, 1998.

(e) APPLICATION OF SECTION.—Notwithstanding any other provision of law, this section shall apply with respect to grants and contracts awarded by the National Endowment for the Arts in lieu of the provisions of sections 5 and 5A of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954 and 954a).

(f) OFFSET.—Each amount of budget authority for the fiscal year ending September 30, 1998, provided in this Act, for payments not required by law is hereby reduced by .11 percent. Such reductions shall be applied ratably to each account, program, activity, and project provided for in this Act.

HUTCHINSON (AND OTHERS) AMENDMENT NO. 1187

(Ordered to lie on the table.)

Mr. HUTCHINSON (for himself, Mr. SESSIONS, Mr. ABRAHAM, and Mr. ENZI) submitted an amendment intended to be proposed by them to the bill, H.R. 2107, supra; as follows:

On page 96, line 12, strike all after "National" through page 97, line 8, and insert the following:

SUPPORT FOR THE ARTS

FINANCIAL ASSISTANCE TO STATES TO SUPPORT THE ARTS

For the necessary expenses to carry out section 202 of this Act, $100,060,000, of which $33,060,000 shall be available on October 1, 1997, and $67,000,000 shall be available on September 30, 1998: *Provided*, That each amount of budget authority for the fiscal year ending September 30, 1998, provided in this Act (other than section 202), for payments not required by law is hereby reduced by 0.11 percent: *Provided further*, That such reductions shall be applied ratably to each account, program, activity, and project provided for in this Act.

GENERAL PROVISIONS

TERMINATION OF THE NATIONAL ENDOWMENT FOR THE ARTS

SEC. 201. (a) REPEALERS.—Sections 5, 5A, and 6 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954, 954a, 955) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) DECLARATION OF PURPOSE.—Section 2 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951) is amended—

(A) in paragraphs (1) and (6) by striking "arts and the",

(B) in paragraphs (2) and (5) by striking "and the arts",

(C) in paragraphs (4), (5), and (9) by striking "the arts and",

(D) in paragraph (7) by striking "the practice of art and",

(E) by striking paragraph (11), and

(F) in paragraph (12) by striking "the Arts and" and redesignating such paragraph as paragraph (11).

(2) DEFINITIONS.—Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952) is amended—

(A) by striking subsections (b), (c), and (f), and

(B) in subsection (d)—

(i) by striking "to foster American artistic creativity, to commission works of art,",

(ii) in paragraph (1)—

(I) by striking "the National Council on the Arts or", and

(II) by striking ", as the case may be,",

(iii) in paragraph (2)—

(I) by striking "sections 5(l) and" and inserting "section",

(II) in subparagraph (A) by striking "an artistic or" and inserting "a", and

(III) in subparagraph (B)—

(aa) by striking "the National Council on the Arts and", and

(bb) by striking ", as the case may be,", and

(iv) by striking "(d)" and inserting "(b)", and

(C) by redesignating subsections (e) and (g) as subsections (c) and (d), respectively.

(3) ESTABLISHMENT OF NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES.—Section 4(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 953(a)) is amended—

(A) in subsection (a)—

(i) by striking "the Arts and" each place it appears, and

(ii) by striking "a National Endowment for the Arts,",

(B) in subsection (b) by striking "and the arts", and

(C) in the heading of such section by striking "THE ARTS AND".

(4) FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES.—Section 9 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958) is amended—

(A) in subsection (a) by striking "the Arts and",

(B) in subsection (b) by striking "the Chairperson of the National Endowment for the Arts,",

(C) in subsection (c)—

(i) in paragraph (1) by striking "the Chairperson of the National Endowment for the Arts and",

(ii) in paragraph (3)—

(I) by striking "the National Endowment for the Arts", and

(II) by striking "Humanities," and inserting "Humanities", and

(iii) in paragraphs (6) and (7) by striking "the arts and", and

(D) in the heading of such section by striking "THE ARTS AND".

(5) ADMINISTRATIVE FUNCTIONS.—Section 10 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 959) is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1)—

(I) by striking "in them",

(II) by striking "the Chairperson of the National Endowment for the Arts and", and

(III) by striking ", in carrying out their respective functions,",

(ii) by striking "of an Endowment" each place it appears,

(iii) in paragraph (2)—

(I) by striking "of that Endowment" the first place it appears and inserting "the National Endowment for the Humanities",

(II) by striking "sections 6(f) and" and inserting "section", and

(III) by striking "sections 5(c) and" and inserting "section", and

(iv) in paragraph (3) by striking "Chairperson's functions, define their duties, and supervise their activities" and inserting "functions, define the activities, and supervise the activities of the Chairperson",

(B) in subsection (b)—

(i) by striking paragraphs (1), (2), and (3), and

(ii) in paragraph (4)—

(I) by striking "one of its Endowments and received by the Chairperson of an Endowment" and inserting "the National Endowment for the Humanities and received by the Chairperson of that Endowment", and

(II) by striking "(4)",

(C) by striking subsection (c),

(D) in subsection (d)—

(i) by striking "Chairperson of the National Endowment for the Arts and the", and

(ii) by striking "each" the first place it appears,

(E) in subsection (e)—

(i) by striking "National Council on the Arts and the", and

(ii) by striking ", respectively,", and

(F) in subsection (f)—

(i) in paragraph (1)—

(I) by striking "Chairperson of the National Endowment for the Arts and the", and

(II) by striking "sections 5(c) and" and inserting "section",

(ii) in paragraph (2)(A)—

(I) by striking "either of the Endowments" and inserting "National Endowment for the Humanities", and

(II) by striking "involved", and

(iii) in paragraph (3)—

(I) by striking "that provided such financial assistance" each place it appears, and

(II) in subparagraph (C) by striking "the National Endowment for the Arts or".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960) is amended—

(1) in subsection (a)(1)—

(A) by striking subparagraph (A), and

(B) in subparagraph (B) by striking "(B)",

(2) in subsection (a)(2)—

(A) by striking subparagraph (A), and

(B) in subparagraph (B)—

(i) by striking "(B)", and

(ii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively,

(3) in subsection (a)(3)—

(A) by striking subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (A), and

(C) by striking subparagraph (C), and

(4) in subsection (a)(4)—

(A) by striking "Chairperson of the National Endowment for the Arts and the",

(B) by striking ", as the case may be,", and

(C) by striking "section 5(e), section 5(l)(2), section 7(f)," and inserting "section 7(f)",

(5) in subsection (c)—

(A) by striking paragraph (1), and

(B) in paragraph (2) by striking "(2)",

(6) in subsection (d)—

(A) by striking paragraph (1), and

(B) in paragraph (2) by striking "(2)", and

(7) by striking subsection (f).

(d) TRANSITION PROVISIONS.—

(1) TRANSFER OF PROPERTY.—On the effective date of the amendments made by this section, all property donated, bequeathed, or devised to the National Endowment for the Arts and held by such Endowment on such date is hereby transferred to the National Endowment for the Humanities.

(2) TERMINATION OF OPERATIONS.—The Director of the Office of Management and Budget shall provide for the termination of the affairs of the National Endowment for the Arts and the National Council on the Arts. Except as provided in paragraph (1), the Director shall provide for the transfer or other disposition of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with implementing the authorities terminated by the amendments made by this section.

(e) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) POET LAUREATE CONSULTANT.—Section 601 of the Arts, Humanities, and Museums Amendments of 1985 (2 U.S.C. 177) is amended by striking subsection (c).

(2) EXECUTIVE SCHEDULE PAY RATE.—Title 5 of the United States Code is amended in section 5314 by striking the item relating to the Chairman of the National Endowment for the Arts.

(3) INSPECTOR GENERAL ACT OF 1978.—Subsection (a)(2) of the first section 8G of the Inspector General Act of 1978 (5 U.S.C. App. 8G(a)(2)) is amended by striking "the National Endowment for the Arts".

(4) DELTA REGION PRESERVATION COMMISSION.—Section 907(a) of National Parks and Recreation Act of 1978 (16 U.S.C. 230f(a)) is amended—

(A) by striking paragraph (7),

(B) in the first paragraph (8) by striking the period at the end and inserting "; and", and

(C) by redesignating the first paragraph (8) as paragraph (7).

(5) JACOB K. JAVITS FELLOWSHIP PROGRAM.—Section 932(a)(3) of the Higher Education Act of 1965 (20 U.S.C. 1134i(a)(3)) is amended by striking "the National Endowment for the Arts,".

(6) GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED.—Section 943(b) of the Higher Education Act of 1965 (20 U.S.C. 1134n(b)) is amended by striking "National Endowments for the Arts and the Humanities" and inserting "National Endowment for the Humanities".

(7) AMERICAN FOLKLIFE CENTER.—Section 4(b) of the American Folklife Preservation Act (20 U.S.C. 2103(b)) is amended—

(A) by striking paragraph (5), and

(B) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(8) JAPAN-UNITED STATES FRIENDSHIP COMMISSION.—Section 4(a) of the Japan-United States Friendship Act (22 U.S.C. 2903(a)) is amended—

(A) in paragraph (3) by adding "and" at the end, and

(B) by redesignating paragraph (5) as paragraph (4).

(9) STANDARDS AND SYSTEMS FOR OUTDOOR ADVERTISING SIGNS.—Section 131(q)(1) of title 23, United States Code, is amended by striking "including the National Endowment for the Arts,".

(10) INTERNATIONAL CULTURE AND TRADE CENTER COMMISSION.—Section 7(c)(1) of Federal Triangle Development Act (40 U.S.C. 1106(c)(1)) is amended—

(A) by striking subparagraph (I), and

(B) by redesignating subparagraph (J) as subparagraph (I).

(11) LIVABLE CITIES.—The Livable Cities Act of 1978 (42 U.S.C. 8143 et seq.) is amended—

(A) in section 804 (42 U.S.C. 8143)—

(i) in paragraph (4) by inserting "and" at the end,

(ii) by striking paragraphs (5) and (7), and

(iii) in paragraph (6)—

(I) by striking "; and" at the end and inserting a period, and

(II) by redesignating such paragraph as paragraph (5), and

(B) in section 805 (42 U.S.C. 8144)—

(i) in subsection (a)—

(I) by striking ", in consultation with the Chairman,", and

(II) in paragraph (3) by striking "jointly by the Secretary and the Chairman" and inserting "by the Secretary",

(ii) in subsection (b) by striking "and the Chairman shall establish jointly" and inserting "shall establish",

(iii) in subsection (c) by striking "jointly by the Secretary and the Chairman" and inserting "by the Secretary",

(iv) in subsection (d)—

(I) by striking "consult with the Chairman and", and

(II) by striking "jointly by the Secretary and the Chairman" and inserting "by the Secretary", and

(v) in subsection (e) by striking ", in cooperation with the Chairman,".

(12) CONVERSION OF RAILROAD PASSENGER PROVISIONS.—Title 49 of the United States Code is amended—

(A) in section 5562(c) by striking "and the Chairman of the National Endowment for the Arts",

(B) in section 5563(a)(4)—

(i) in subparagraph (A) by adding "or" at the end,

(ii) by striking subparagraph (B), and

(iii) by redesignating subparagraph (C) as subparagraph (B),

(C) in section 5564(c)(1)(C) by striking "or the Chairman of the National Endowment for the Arts", and

(D) in section 5565(c)(1)(B) by striking "or the Chairman of the National Endowment for the Arts".

(13) EDUCATIONAL RESEARCH, DEVELOPMENT, DISSEMINATION AND IMPROVEMENT ACT OF 1994.—Title IX of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6001 et seq.) is amended—

(A) in section 921(j) (20 U.S.C. 6021(j))—

(i) by striking paragraph (5), and

(ii) by redesignating paragraphs (6), (7) and (8) as paragraphs (5), (6), and (7), respectively, and

(B) in section 931(h)(3) (20 U.S.C. 6031(h)(3))—

(i) by striking subparagraph (H), and

(ii) by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (H), (I), (J), and (K), respectively.

(14) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(A) in section 2101(b) (20 U.S.C. 6621(b)) by striking "the National Endowment for the Arts,",

(B) in section 2205(c)(1)(D) (20 U.S.C. 6645(c)(1)(D)) by striking "the National Endowment for the Arts,",

(C) in section 2208(d)(1)(H)(v) (20 U.S.C. 6648(d)(1)(H)(v))—

(i) by inserting "and" after "Services," the second place it appears, and

(ii) by striking ", and the National Endowment for the Arts",

(D) in section 2209(b)(1)(C)(vi) (20 U.S.C. 6649(b)(1)(C)(vi)) by striking "the National Endowment for the Arts,",

(E) in section 3121(c)(2) (20 U.S.C. 6831(c)(2)) by striking "the National Endowment for the Arts,",

(F) in section 10401 (20 U.S.C. 8091)—

(i) in subsection (d)(6) by striking "the National Endowment for the Arts,", and

(ii) in subsection (e)(2) by striking "the National Endowment for the Arts,",

(G) in section 10411(a) (20 U.S.C. 8101(a))—

(i) by striking paragraph (2), and

(ii) by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively,

(H) in section 10412(b) (20 U.S.C. 8102(b))—

(i) in paragraph (2) by striking "the Chairman of the National Endowment for the Arts,", and

(ii) in paragraph (7) by striking ", the Chairman of the National Endowment for the Arts", and

(I) in section 10414(a)(2)(B) (20 U.S.C. 8104(a)(2)(B))—

(i) in clause (i) by inserting "and" at the end,

(ii) by striking clause (ii), and

(iii) by redesignating clause (iii) as clause (ii).

(15) DELTA REGION HERITAGE; NEW ORLEANS JAZZ COMMISSION.—Public Law 103-433 (108 Stat. 4515) is amended—

(A) in section 1104(b) (16 U.S.C. 1a-5 note) by striking "the Chairman of the National Endowment for the Arts,", and

(B) in section 1207(b)(6) (16 U.S.C. 410bbb-5(b)(6)) by striking "and one member from recommendations submitted by the Chairman of the National Endowment of the Arts".

(f) EFFECTIVE DATE.—This section shall take effect on the later of October 1, 1997, or the date of enactment of this Act.

FEDERAL FINANCIAL ASSISTANCE TO THE STATES TO SUPPORT THE ARTS

SEC. 202. (a) GRANTS TO STATES.—

(1) IN GENERAL.—From funds allotted under paragraphs (2) and (3) of subsection (d), the Secretary of the Treasury may make grants to States to support the arts in such a manner as will furnish adequate programs, facilities, and services in the arts to all the people and communities in the States through—

(A) projects and productions which have substantial national or international artistic and cultural significance;

(B) projects and productions, meeting professional standards of authenticity or tradition, irrespective of origin, which are of significant merit;

(C) projects and productions that will encourage and assist artists to work in residence at an educational or cultural institution;

(D) projects and productions which have substantial artistic and cultural significance;

(E) projects and productions that will encourage public knowledge, education, understanding, and appreciation of the arts;

(F) workshops that will encourage and develop the appreciation and enjoyment of the arts by our Nation's citizens;

(G) programs for the arts at the local level; and

(H) projects that enhance managerial and organizational skills and capabilities.

(2) PAYMENTS AND AVAILABILITY.—Grant funds awarded to a State under this section shall be paid to the Governor of the State. The Governor shall make the grant funds available to the Governor's office, the State arts council or commission, or the State legislature.

(3) AMOUNT.—The total amount of grant funds awarded to a State under this section for a project or production may not exceed 50 percent of the cost of the project or production, respectively.

(b) ADMINISTRATIVE AND FISCAL ACCOUNTABILITY.—

(1) AUDIT.—

(A) IN GENERAL.—A State shall audit the State expenditures from amounts received under this section. Such audit shall—

(i) determine the extent to which such expenditures were or were not expended in accordance with this section; and

(ii) be conducted by an approved entity (as defined in subparagraph (B)) in accordance with generally accepted auditing principles.

(B) DEFINITION OF APPROVED ENTITY.—For purposes of subparagraph (A), the term "approved entity" means an entity that is—

(i) approved by the Secretary of the Treasury;

(ii) approved by the Governor of the State; and

(iii) independent of any agency administering activities funded under this section.

(C) SUBMISSION.—Not later than 30 days following the completion of an audit under this subsection, a State shall submit a copy of the audit to the State legislature and to the Secretary of the Treasury.

(D) REPAYMENT AND PENALTY.—Each State or recipient of any proceeds of grant funds made available under this section shall pay to the United States amounts ultimately found by the approved entity under paragraph (1)(A) not to have been expended in accordance with this section plus 10 percent of such amount as a penalty, or the Secretary of the Treasury may offset such amounts plus the 10 percent penalty against any amount that the State or recipient, respectively, may be eligible to receive under this section.

(2) REQUIREMENTS FOR SINGLE AUDITS.—The provisions of chapter 75 of title 31, United States Code, shall apply to the audit requirements of this section.

(3) STATE REPORTS.—

(A) IN GENERAL.—A State shall prepare a comprehensive report regarding the activities carried out with amounts received by the State under this section.

(B) REQUIREMENTS.—Reports prepared under this subsection—

(i) shall be in accordance with generally accepted accounting principles, including the provisions of chapter 75 of title 31, United States Code;

(ii) shall include the results of the most recent audit conducted in accordance with the requirements of paragraph (1); and

(iii) shall be in such form and contain such other information as the State deems necessary—

(I) to provide an accurate description of such activities; and

(II) to secure a complete record of the purposes for which amounts were expended in accordance with this section.

(C) AVAILABILITY OF REPORTS.—A State shall make copies of the reports required under this subsection available for public inspection within the State. Copies also shall be provided upon request to any interested public agency, and each such agency may provide such agency's views on such reports to Congress.

(4) SUPERVISION.—

(A) IN GENERAL.—

(i) REQUIREMENT.—The Secretary of the Treasury shall supervise the amounts received under this part in accordance with clause (ii).

(ii) LIMITATION.—The supervision by the Secretary of the Treasury shall be limited to—

(I) making grant payments to the States;

(II) approving the entities referred to in paragraph (1)(B); and

(III) withholding payment to a State based on the findings of such an entity in accordance with paragraph (1)(C)(ii).

(B) SPECIAL RULE.—No administrative officer or agency of the United States, other than the Secretary of the Treasury shall supervise the amounts received by the States under this section or the use of such amounts by the States.

(5) PROHIBITION.—With the exception of the Department of the Treasury as provided for in this section, no Federal department or agency may promulgate regulations or issue rules regarding this section.

(6) COMPLIANCE.—If the Secretary of the Treasury determines that a State, or a recipient of any proceeds of grant funds made available under this section, has failed to comply with a provision of this section, the Secretary of the Treasury shall notify the Governor of the State and shall request the Governor to secure compliance with such provision. If, not later than 60 days after receiving such notification, the Governor fails or refuses to secure compliance, the Secretary of the Treasury may take such action as the Secretary determines necessary to secure compliance.

(c) CONDITIONS ON USE OF FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, grant funds made available under this section and the proceeds of the grant funds may not be used to promote, disseminate, sponsor, or produce any project or production that—

(A) denigrates the religious objects or religious beliefs of the adherents of a particular religion; or

(B) depicts or describes, in a patently offensive way, sexual or excretory activities or organs.

(2) STRICT APPLICATION.—The prohibition described in paragraph (1) shall be strictly applied without regard to the content or viewpoint of the project or production.

(d) ALLOTMENT OF FUNDS.—

(1) RESERVATION FOR ADMINISTRATIVE COSTS.—From the sum appropriated under subsection (g) the Secretary shall reserve not more than $1,000,000 for the administrative costs of the Department of the Treasury.

(2) MINIMUM ALLOTMENT.—From the sum appropriated under subsection (g) and not reserved under paragraph (1), the Secretary first shall allot—

(A) $500,000 to each State; and

(B) $200,000 to each of the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(3) ALLOTMENT OF REMAINDER.—From the sum appropriated under subsection (g), not reserved under paragraph (1), and not allotted under paragraph (2), the Secretary shall allot to each State an amount that bears the same relation to the sum as the population of the State bears to the population of all States.

(4) STATE ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the funds allotted under paragraph (3) for administrative costs.

(5) DEFINITION OF STATE.—Notwithstanding subsection (e) and for the purposes of paragraphs (2)(A) and (3), the term "State" means each of the several States of the United States and the District of Columbia.

(e) DEFINITIONS.—In this section:

(1) ARTS.—The term "arts" includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, costume and fashion design, motion pictures, television, radio, film, video, tape and sound recording, the arts related to the presentation, performance, execution, and exhibition of such major art forms, all those traditional arts practiced by the diverse peoples of this country, and the study and application of the arts to the human environment.

(2) GOVERNOR.—The term "Governor" means the chief executive officer of a State.

(3) PRODUCTION.—The term "production" means plays (with or without music), ballet, dance and choral performances, concerts, recitals, operas, exhibitions, readings, motion pictures, television, radio, film, video tape and sound recordings, and any other activities involving the execution or rendition of the arts.

(4) PROJECT.—The term "project" means programs organized to carry out this section, including programs to foster American artistic creativity, to commission works of art, to create opportunities for individuals to develop artistic talents when carried on as a part of a program otherwise included in this definition, and to develop and enhance public knowledge and understanding of the arts. Such term includes, where appropriate, rental or purchase of facilities, purchase or rental of land, and acquisition of equipment. Such term also includes the renovation of facilities if the amount of the expenditure of Federal funds for such purpose in the case of any project does not exceed $250,000.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(6) STATE.—The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(f) REPORT BY INSPECTOR GENERAL.—The Inspector General of the Department of the Treasury shall submit to Congress a report describing the extent to which States and the recipients of any proceeds of grant funds made available under subsection (a) comply with the requirements of this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,060,000 for fiscal year 1998.

ASHCROFT (AND OTHERS) AMENDMENT NO. 1188

Mr. ASHCROFT (for himself, Mr. HELMS, Mr. BROWNBACK, Mr. SESSIONS, and Mr. INHOFE) proposed an amendment to the bill, H.R. 2107, supra; as follows:

Beginning on page 96, strike line 14 and all that follows through page 97, line 8.

THE FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNTABILITY ACT OF 1997 PRESCRIPTION DRUG USERS FEE REAUTHORIZATION ACT OF 1997

HUTCHINSON AMENDMENT NO. 1189

(Ordered to lie on the table.)

Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill, S. 830, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . APPLICATION OF FEDERAL LAW TO THE PRACTICE OF PHARMACY COMPOUNDING.

Section 503 (21 U.S.C. 353) is amended by adding at the end the following:

"(h)(1) Sections 501(a)(2)(B), 502(f)(1), 502(l), 505, and 507 shall not apply to a drug product if—

"(A) the drug product is compounded for an identified individual patient, based on a medical need for a compound product—

"(i) by a licensed pharmacist in a State licensed pharmacy or a Federal facility, or a licensed physician, on the prescription order of a licensed physician or other licensed practitioner authorized by State law to prescribe drugs; or

"(ii) by a licensed pharmacist or licensed physician in limited quantities, prior to the receipt of a valid prescription order for the identified individual patient, and is compounded based on a history of the licensed pharmacist or licensed physician receiving valid prescription orders for the compounding of the drug product that have been generated solely within an established relationship between the licensed pharmacist, or licensed physician, and—

"(I) the individual patient for whom the prescription order will be provided; or

"(II) the physician or other licensed practitioner who will write such prescription order; and

"(B) the licensed pharmacist or licensed physician—

"(i) compounds the drug product using bulk drug substances—

"(I) that—

"(aa) comply with the standards of an applicable United States Pharmacopeia or National Formulary monograph; or

"(bb) in a case in which such a monograph does not exist, are drug substances that are covered by regulations issued by the Secretary under paragraph (3);

"(II) that are manufactured by an establishment that is registered under section 510 (including a foreign establishment that is registered under section 510(i)); and

"(III) that are accompanied by valid certificates of analysis for each bulk drug substance;

"(ii) compounds the drug product using ingredients (other than bulk drug substances) that comply with the standards of an applicable United States Pharmacopeia or National Formulary monograph and the United States Pharmacopeia chapter on pharmacy compounding;

"(iii) only advertises or promotes the compounding service provided by the licensed pharmacist or licensed physician and does not advertise or promote the compounding of any particular drug, class of drug, or type of drug;

"(iv) does not compound a drug product that appears on a list published by the Secretary in the Federal Register of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective;

"(v) does not compound a drug product that is identified by the Secretary in regulation as presenting demonstrable difficulties for compounding that reasonably demonstrate an adverse effect on the safety or effectiveness of that drug product; and

"(vi) does not distribute compounded drugs outside of the State in which the drugs are compounded, unless the principal State agency of jurisdiction that regulates the practice of pharmacy in such State has entered into a memorandum of understanding with the Secretary regarding the regulation of drugs that are compounded in the State and are distributed outside of the State, that provides for appropriate investigation by the State agency of complaints relating to compounded products distributed outside of the State.

"(2)(A) The Secretary shall, after consultation with the National Association of Boards of Pharmacy, develop a standard memorandum of understanding for use by States in complying with paragraph (1)(B)(vi).

"(B) Paragraph (1)(B)(vi) shall not apply to a licensed pharmacist or licensed physician, who does not distribute inordinate amounts of compounded products outside of the State, until—

"(i) the date that is 180 days after the development of the standard memorandum of understanding; or

"(ii) the date on which the State agency enters into a memorandum of understanding under paragraph (1)(B)(vi),

whichever occurs first.

"(3) The Secretary, after consultation with the United States Pharmacopeia Convention Incorporated, shall promulgate regulations limiting compounding under paragraph

(1)(B)(i)(I)(bb) to drug substances that are components of drug products approved by the Secretary and to other drug substances as the Secretary may identify.

"(4) The provisions of paragraph (1) shall not apply—

"(A) to compounded positron emission tomography drugs as defined in section 201(ii); or

"(B) to radiopharmaceuticals.

"(5) In this subsection, the term 'compound' does not include to mix, reconstitute, or perform another similar act, in accordance with directions contained in approved drug labeling provided by a drug manufacturer.".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the nominations hearing previously scheduled before the full Committee on Energy and Natural Resources on Thursday, September 18, 1997, at 9:30 a.m. will now take place at 9 a.m. in room SE–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Camille Flint at (202) 224–5070.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on "Emerging Securities Fraud: Fraud In The Micro-Capital Markets."

This hearing will take place on Monday, September 22, 1997, at 1:30 p.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Timothy J. Shea of the subcommittee staff at 224–3721.

ADDITIONAL STATEMENTS

ENHANCED OIL RECOVERY PROJECTS PROGRESS

• Mr. DOMENICI. Mr. President, in 1989, I stood on the Senate floor and urged the Senate to enact tax incentives for enhanced oil recovery techniques.

At that time, I told my colleagues that traditional drilling techniques were leaving behind 70 percent of the resource when traditional drilling and pumping was completed. To me, this was wasteful, foolish, and unnecessary.

It is wasteful to leave the oil behind.

It is foolish because the United States has a growing appetite for energy. We are currently importing close to half of the energy we use from an area of the world renowned for political instability.

It is unnecessary because we have the technology to recover the resource if we would use enhanced oil recovery techniques.

In 1989, I also told the Senate that it would be possible to recover another 20 billion barrels of oil from our same oil fields of existing wells if enhanced oil recovery techniques were used. Since our known recoverable reserves at that time were in the neighborhood of 28 billion barrels, the potential was, and still is, significant.

At that time, the Department of Energy conducted extensive studies showing that if a 15-percent investment tax credits were enacted, it could result in the recovery of additional reserves for as little cost to the Treasury as $1 per additional barrel recovered—assuming $20 per barrel oil.

For each and every dollar of Federal revenue invested in EOR incentives, the trade deficit would be reduced by $24 to $76 dollars according to the same DOE studies.

States with significant EOR potential include California, Texas, New Mexico, and Oklahoma. Other States with reserves include Arkansas, Colorado, Florida, Illinois, Kansas, Louisiana, Mississippi, Montana, North Dakota, Utah, and Wyoming.

In 1990, the Congress enacted tax incentives to encourage enhanced oil recovery so that more of this vast resource could be recovered and put to good use. I am proud to have been the primary sponsor of that legislation.

As a Senator, one of the greatest rewards is seeing a new law make the world a better place. During the August recess I had this rewarding experience. I also saw the predictions of the theoretical studies proven up in the real world.

I toured the Texaco enhanced oil recovery project located in Buckeye, NM. The technical name of the project is the "Central Vacuum Unit CO_2 project."

This particular oil field was discovered in 1929. Primary oil recovery techniques were used until 1977. Beginning in 1977, the field was transformed into a waterflood operation. Waterflood is a secondary oil recovery technique. The waterflood technology sustained and enhanced production for awhile, but it was evident that either the oil wells in the field would be shut-in and the field shut down leaving behind a significant amount of oil, or enhanced oil recovery methods could prolong economic levels of production. One very promising enhanced oil recovery technique involves injecting the wells with CO_2.

CO_2 injection is an enhanced oil recovery technique eligible for a 15-percent Federal investment tax credit. Using CO_2 is going to significantly extend the life of this mature field by more than 20 years. The project will recover an additional 20 million barrels of oil and 23 billion cubic feet of gas that otherwise would have been left behind.

Texaco is the operator of this project. Marathon Oil, Phillips Petroleum, Mobil Exploration and Production U.S. Inc., and 15 others are interest owners in the project.

New Mexico is blessed with magnificent oil and gas reserves. It is doubly blessed because it is also the home to the New Mexico Institute of Mining and Technology Petroleum Recovery Research Center. The center has served as a focal point for development and application of improved oil and gas recovery processes. They have a world-renowned reputation as one of the leading petroleum research centers. They were very helpful in developing the original legislation.

In every oil- and gas-producing State, there are aging oil and gas fields with declining production, that could be made more productive using enhanced oil recovery techniques. I am pleased that there is a fine example in New Mexico. It is providing 100 jobs in addition to adding to our energy security.•

UKRAINIAN INDEPENDENCE DAY

• Mr. LEVIN. Mr. President, I rise today to honor Ukrainian Independence Day. Since its independence on August 24, 1991, The Ukrainian Government has taken several bold steps to reform the country after many years of Soviet rule. We should take this opportunity today to review the success that Ukraine has recently experienced.

In 1994, Ukraine held legislative and Presidential elections. These elections were carried out in an open and fair manner that bodes well for stable democracy in Ukraine. Ukraine now exhibits signs of a healthy democracy, including the existence of multiple interests represented within the Government, and last year, Ukraine overwhelmingly enacted a new constitution which guarantees the right of private ownership.

Ukraine has also focused on reforming its economy with some significant results. The Government has taken steps to improve the investment climate in Ukraine. In order to further promote privatization, the President of Ukraine signed the State Privatization Program for 1997. Ukraine also launched a new currency, the hryvna, and inflation has been reduced dramatically.

Ukraine's efforts on security issues may be its most successful. The Government has been rightfully lauded for its efforts to rid Ukrainian soil of nuclear weapons by faithfully following guidelines under the START I Treaty and other agreements. And, by joining the Partnership for Peace Program for NATO membership, Ukraine has shown its determination to contribute to the security of Europe.

The people of Ukraine deserve our admiration and support for the fine work they have done in such a short period

of time. The Ukrainian-American community in Michigan is in the front ranks of such support. I know my Senate colleagues join me in celebrating the sixth anniversary of Ukrainian independence.•

PROTECT TRUTH IN LABELING

• Mr. ABRAHAM. Mr. President, last Thursday, Senator HOLLINGS and I introduced a resolution that aims to protect truth in labeling and, specifically, the integrity of the "Made in USA" label. It would express the sense of Congress that the Federal Trade Commission should retain the current standard for labeling products "Made in USA."

For over 50 years now, Mr. President, consumer goods have been labeled "Made in USA" when, and only when, they were made all or virtually all in the United States. But recently the FTC announced plans to allow companies to use the "Made in USA" label on products for which U.S. manufacturing costs represent as little as 75 percent of total manufacturing costs and the product was last substantially transformed in the United States. Alternatively, a product could be labeled "Made in USA" if it was last substantially transformed in the United States and all its significant inputs were last substantially transformed in the United States.

In practice, Mr. President, this means that products containing no materials or parts of U.S. origin could nonetheless be labeled as "Made in USA." Should the company expend 75 percent of its manufacturing costs or engage in the final substantive assembly or other modification of the product in the United States, it could display the "Made in USA" label on the product, even if its entire content, including manufactured parts, came from overseas.

In my view, Mr. President, such rules would in effect condone false advertising. Many Americans look specifically for the "Made in USA" label because they want to support American workers. These loyal Americans do not believe that they are purchasing products mostly made in the USA, let alone products for which most manufacturing costs were incurred in the USA, or which were substantially transformed in the USA. Quite rightly, consumers who look for the "Made in USA" label believe that in purchasing a product with that label they are getting something made all or virtually all in the United States.

Also important, Mr. President, are the expectations of the many companies that have made substantial investments in plant and equipment, as well as hiring and training, in the United States. These companies have a right to expect that the "Made in USA" label, which they have worked so hard to earn and maintain, will continue to apply only to products made all, or virtually all, in the United States.

To dilute the requirement for use of the "Made in USA" label would be to lower the value of that label. It would allow companies operating substantially overseas to deceive American consumers who are attempting to support truly American made products and workers. It would discourage companies from investing in this country by telling them, in effect, that they will no longer receive any benefit for keeping jobs at home. The result would be a loss of American jobs and morale, as well as a critical blow to consumer confidence in the veracity of product labels.

Mr. President, the American people have a right to expect that the "Made in USA" label will mean what it says. For over 50 years they have depended on that label to assure them that they are purchasing products made all or virtually all in the United States. I urge my colleagues to join me in sending the message to the FTC that we must keep things that way.•

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the following Senators as members of the Senate delegation to the Canada-United States Interparliamentary Group during the first session of the 105th Congress, to be held in Nova Scotia and Prince Edward Island, Canada, September 11–15, 1997:

The Senator from Utah [Mr. MURKOWSKI], Chairman;

The Senator from Utah [Mr. HATCH];

The Senator from Iowa [Mr. GRASSLEY];

The Senator from Indiana [Mr. COATS];

The Senator from Ohio [Mr. DEWINE]; and

The Senator from Wyoming [Mr. ENZI].

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–26

Mr. BENNETT. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on September 15, 1997, by the President of the United States:

Protocol with Mexico Amending Convention for Protection of Migratory Birds (Treaty Document No. 105–26).

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol Between the Government of the United States of America and the Government of the United Mexican States Amending the Convention for the Protection of Migratory Birds and Game Mammals, signed at Mexico City on May 5, 1997 ("the Mexico Protocol"). I transmit also, for the information of the Senate, the report of the Department of State with respect to the Mexico Protocol.

In concert with a similar Protocol between the Government of the United States and Canada, the Mexico Protocol represents a considerable achievement for the United States in conserving migratory birds and balancing the interests of conservationists, sports hunters, and indigenous people. The Protocol should further enhance the management of and protection of this important resource for the benefit of all users.

The Mexico Protocol is particularly important because it will permit the full implementation of the Protocol Amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States ("the Canada Protocol") that is pending before the Senate at this time. The Canada Protocol is an important agreement that addresses the management of a spring/summer subsistence hunt of waterfowl in communities in Alaska and northern Canada. The Mexico Protocol conforms the Canadian and Mexican migratory bird conventions in a manner that will permit a legal and regulated spring/summer subsistence hunt in Canada and the United States.

I recommend that the Senate give early and favorable consideration to the Protocol and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 15, 1997.*

MEASURE PLACED ON CALENDAR—S. 1178

Mr. BENNETT. Mr. President, I ask unanimous consent that S. 1178, introduced earlier today by Senators ABRAHAM and KENNEDY, be placed on the calendar.

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

ORDERS FOR TUESDAY, SEPTEMBER 16, 1997

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it

stand in adjournment until the hour of 9:30 a.m. on Tuesday, September 16. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of S. 830, the FDA reform bill.

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

Mr. BENNETT. I further ask unanimous consent that the Senate recess from 12:30 to 2:15 p.m. on Tuesday for the weekly policy conferences to meet.

PROGRAM

Mr. BENNETT. Tomorrow morning when the Senate convenes, there will be 30 minutes of debate prior to a vote on the motion to invoke cloture on the pending substitute amendment to S. 830, the FDA reform bill. Senators should, therefore, anticipate the first rollcall vote tomorrow morning at approximately 10 a.m.

If cloture is invoked, it is the majority leader's hope that the Senate can conclude action on the FDA bill in a reasonable timeframe on Tuesday. Under the consent agreement, all Senators have until 10 a.m. in order to file second-degree amendments to the FDA bill.

The Senate will also resume consideration of the Interior appropriations bill. Therefore, Senators can expect additional votes on Tuesday following the cloture vote.

This week, the Senate may also consider the D.C. appropriations bill, as well as any legislative or executive items that can be cleared for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:11 p.m., adjourned until Tuesday, September 16, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 15, 1997:

IN THE COAST GUARD

THE FOLLOWING-NAMED OFFICERS OF THE U.S. COAST GUARD PERMANENT COMMISSIONED TEACHING STAFF AT THE COAST GUARD ACADEMY FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. COAST GUARD UNDER TITLE 14, UNITED STATES CODE, SECTION 189:

To be commander

STEPHEN E. FLYNN, x...
JONATHAN C. RUSSELL, x...
MICHAEL A. ALFULTIS, x...
VINCENT WILCZYNSKI, x...

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. COAST GUARD UNDER TITLE 14 UNITED STATES CODE, SECTION 271:

To be commander

FRANK M. PASKEWICH, x...
ANTHONY S. REYNOLDS, x...
THEODORE A. BULL, x...
TIMOTHY F. MANN, x...
GARY M. ALEXANDER, x...
GREGORY R. HAACK, x...
MARK P. O'MALLY, x...
ROBERT M. PALATKA, x...
JOHN J. COOK, x...
MARK A. ROSE, x...
JOHN F. KAPLAN, x...
TIMOTHY M. CLOSE, x...
PAMELA A. RUSSELL, x...
WILLIAM T. DEVEREAUX, x...
MATTHEW J. GLOMB, x...
DAVID C. EKY, x...
STEPHEN A. BILLIAN, x...
MARK E. BUTT, x...
PETER S. SIMONS, x...
THADDEUS G. SLIWINSKI, x...
STEVEN R. CORPORON, x...
JAMES Y. POYER, x...
VINCE S. SEDWICK, x...
EUGENE F. CUNNINGHAM, x...
JOSEPH E. MIHELIC, x...
STEVEN E. CARLSON, x...
MICHAEL C. COSENZA, x...
RAYMOND J. PETOW, x...
DANIEL J. MCCLELLAN, x...
ARTHUR C. WALSH, x...
MICHAEL R. KELLEY, x...
JOHN A. WATSON, x...
DAVID A. DURHAM, x...
LEONARD R. RADZIWANOWICZ, x...
MICHAEL N. PARKS, x...
CRAIG A. BENNETT, x...
DOUGLAS G. RUSSELL, x...
THOMAS R. HALE, x...
GEORGE P. HANNIFIN, x...
JAMES L. MCDONALD, x...
KEVIN M. O'DAY, x...
WILLIAM J. DIEHL, x...
TERRY A. BICKHAM, x...
MORRIS B. STEWART, x...
BRIAN D. KELLEY, x...
THOMAS F. ATKIN, x...
JOSEPH A. SERVIDIO, x...
JOSEPH P. SEEBALD, x...
EDWARD W. GREINER, x...
JEFFREY S. HAMMOND, x...
JOHN M. WEBER, x...
CHARLEY L. DIAZ, x...
FRED M. MIDGETTE, x...
MARK J. DANDREA, x...
JEFFREY S. GRIFFIN, x...
WILLIAM M. RANDALL, x...
CHARLES A. MATHIEU, x...
EVAN Q. KAHLER, x...
SANDRA L. STOSZ, x...
GEORGE P. CUMMINGS, x...
FRED T. WHITE, x...
ANDREW J. BERGHORN, x...
STEPHEN P. METRUCK, x...
VINCENT B. ATKINS, x...
THOMAS S. MORRISON, x...
THOMAS A. ABBATE, x...
ROGER E. DUBUC, x...
MICHAEL E. LEHOCKY, x...
EDWARD SINCLAIR, x...
MARK S. TORRES, x...
DAVID R. CALLAHAN, x...
MICHAEL E. SULLIVAN, x...
LANCE O. BENTON, x...
ROBERT G. MUELLER, x...
HAL R. SAVAGE, x...
RUDY T. HOLM, x...
DAVID D. SIMMS, x...
RONALD E. KAETZEL, x...
STEVEN R. BAUM, x...
LYLE A. RICE, x...
JOSEPH M. HANSON, x...
JAMES B. MCPHERSON, x...
STEPHEN M. WHEELER, x...
RICHARD G. BRUNKE, x...
LEONARD L. RITTER, x...
MARK M. CAMPBELL, x...
FRED R. CALL, x...
CHRISTOPHER W. DOANE, x...
MICHAEL A. HAMEL, x...
PEYTON A. COLEMAN, x...
STEVEN C. TAYLOR, x...
MICHAEL D. DAWE, x...
FRANK M. REED, x...
THOMAS M. HEITSTUMAN, x...
THOMAS E. ATWOOD, x...
MICHAEL E. KENDALL, x...
ROBERT L. DESH, x...
DANIEL B. ABEL, x...
RICHARD T. GROMLICH, x...
LINCOLN D. STROH, x...
KEITH A. TAYLOR, x...
MARK R. HIGGINS, x...
FREDERICK W. TUCHER, x...
KRISTY L. PLOURDE, x...
RICHARD D. BELISLE, x...
MAURA S. ALBANO, x...
DAVID H. GORDNER, x...
PAUL E. WIEDENHOEFT, x...
JOHN C. ODELL, x...
KARL L. SCHULTZ, x...
BRUCE L. TONEY, x...
TERRY A. BOYD, x...
EDWIN B. THIEDEMAN, x...
KENNETH K. MOORE, x...
MATHEW D. BLIVEN, x...
TODD GENTILE, x...
RICHARD K. MURPHY, x...
EUGENE GRAY, x...
JOHN J. JENNINGS, x...
ROBERT M. PYLE, x...

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. PETER J. SCHOOMAKER, x...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY 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. WILLIAM J. BOLT, x...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY 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. JACK P. NIX, JR., x...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY 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. LARRY R. JORDAN, x...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624.

To be brigadier general

COL. HENRY W. STRATMAN, 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. PETER PACE, x...

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

To be lieutenant colonel

RAFAEL LARA, JR., x...

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 12203 AND 12211:

To be colonel

MORRIS F. ADAMS, JR., x...
CAREY B. BUSSEY, x...
JAMES P. DALEY, x...
DAVID N. DUNN, x...
DORCAS M. EAVES, x...
BERT W. HOLMES, JR., x...
DENNIS D. HULL, x...
DAVID B. JACK, x...
JAMES G. JAJICH, x...
WILLIAM G. RANSON, x...
ROSEMARY A. SEDLACEK, x...
WILLIAM A. SIMPSON, JR., x...
RALPH E. STAPLETON, x...
FRANK A. TREFNY, x...
GEORGE W. WILSON, x...

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

To be major

JOHN C. KOTRUCH, x...

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. NAVY UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be captain

DAVID M. BELT, JR., x...
CHARLES J. BURT, JR., x...

JOHN S. GWUDZ, X...
NORMAN D. HOLCOMB, JR., X...
JOHN S. LINEBACK, X...
PAUL F. MCLAUGHLIN, X...
JOHN W. MORRISON, X...
R.B. PIERCE, X...
JAMES F. POE, JR., X...
GARY R. POLLITT, X...
CHARLES SOTO, X...
PHILIP S. SPAIN, X...
GENE P. THERIOT, X...

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be colonel

CYNTHIA A. ABBOTT, X...
RICHARD L. AGEE, X...
EDWIN K. ARMITAGE, X...
ELLEN M BALD, X...
JOHN E. BALL, X...
HOLGER L. BRENCHER, X...
JAMES D. BROGDON, X...
ELIZABETH A. BRYANT, X...
MICHAEL A. CALDER, X...
JOSEPH D. CAMBRE, X...
DAVID W. CHANDLER, X...
DIANA J. CONRAD, X...
ROBERT C. DAHLANDER, X...
GEORGE J. DYDEK, X...
GLEN M. FITZPATRICK, X...
JAMES L. FLETCHER, X...
MICHAEL D. GARRETT, X...
BARBARA S. GSCHEIDLE, X...
JANET R. HARRIS, X...
NANCY E. HENDERSON, X...
CARL E. HENDRICKS, X...
DOUGLAS HEWITT, X...
NOLAN J. HINSON, X...
STEPHEN J. JANNY, X...
LEIF G. JOHNSON, X...
MICHAEL G. JOHNSON, X...
MICHAEL B. KELLEY, X...
JOHN G. KITSOPOULOS, X...
LARRY K. LEWIS, X...
LAWRENCE K. LIGHTNER, X...
GEORGE D. MAGEE, X...
JAMES F. MCGAHA, X...
LAURIE A. MCNABB, X...
EUGENE A. MILLER, X...
DAVID T. MOONAN, X...
SHIRLEY I. NEWCOMB, X...
LYNN E. NORMAN, X...
JOHN P. OBUSEK, X...
GERALD L. ONEY, X...
BONNIE S. PEARSON, X...
MYRON V. PIZIAK, X...
DIANE J. PLEMENIK, X...
THOMAS N. POOL, X...
BILLIE J. RANDOLPH, X...
VALERIE J. RICE, X...
RONALD M. ROSENBERG, X...
DAVID A. RUBENSTEIN, X...
RAMON M. SANCHEZ, X...
CARL E. SETTLES, X...
JAMES G. SOLOMON, X...
CLARENCE D. VESELY, X...
ARTHUR P. WALLACE, X...
JOHNNY L. WEST, X...
CYNTHIA A. WOODLING, X...
NANCY A. WOOLNOUGH, X...
LINDA H. YODER, X...
ANTHONY W. YOUNG, X...

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. NAVY UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be commander

EUGENE M. ABLER, X...
GLEN C. ACKERMANN, X...
DAVID B. ADLER, X...
ROBERT J. ADRION, X...
RALPH N. ALDERSON, JR., X...
RICHARD K. J. ALEXANDER, X...
CHARLES L. ALEY, III, X...
WILLIAM H. ALL, IV, X...
EDWARD T. ALLEN, X...
ROBERT L. ALTEMUS, X...
CHARLES J. ALTMAN, X...
JOSE L. ALVAREZ, JR., X...
JEFFREY C. AMICK, X...
ROY L. ANDERSON, X...
GUSTAV A. ANDERSON, X...
ROBERT G. ANDERSON, X...
THOMAS X. ANDERSON, X...
MELISSA S. ANDREWS, X...
PHILLIP T. ANGELINI, X...
KEVIN S. APEL, X...
WILLIAM B. ARCHER, X...
CLAYTON L. ARMSTRONG, X...
HERB I. ARNOLD, X...
ROBERT A. ARONSON, X...
MICHAEL L. ARTURE, X...
WILLIAM R. AULT, X...
MARK E. BAKOTIC, X...
MICHAEL R. BARCLIFT, X...
CHRISTOPHER A. BARNES, X...
ROY T. BARNES, JR., X...
JEFFREY S. BARTKOSKI, X...
RUSSELL J. BARTLETT, X...
KEITH R. BARTON, X...
MARK T. BASICH, X...
TIMOTHY A. BATZLER, X...
JAMES J. BAUSER, X...
FRED C. BEACH, X...
PHILLIP L. BEACHY, X...
THOMAS R. BEALL, X...
DAVID F. BEAN, X...
WILLIAM W. BEAUMONT, X...
RICHARD R. BECK, X...
RAYMOND S. BEDNARCIK, JR., X...
KATHLEEN A. BEERNINK, X...
DAVID F. BEERS, X...
MARGUERITE E. BELEC, X...
DAVID D. BELT, X...
CHARLES J. BERDAR, X...
WILLIAM J. BERGIN, X...
RICHARD O. BERNARD, X...
TIMOTHY C. BERTCH, X...
RONALD C. BETHMANN, X...
WILLIAM P. BINGHAM, X...
GILMORE N. BIRKLUND, X...
JOHN K. BISHOP, X...
CRAIG R. BLACK, X...
WAYNE R. BLANDING, X...
MATTHEW E. BOBOLA, X...
DEBRA A. BODENSTEDT, X...
RICHARD H. BOHNER, JR., X...
ROBERT A. BONNER, X...
JAMES R. BOORUJY, X...
TIMOTHY E. BOOTHE, X...
STEVEN C. BOS, X...
KELLY S. BOSE, X...
THOMAS A. BOTHWELL, X...
IRVING G. BOUGH, X...
DAVID M. BOUTON, X...
FRANK W. BOYD, X...
ERIC H. BRANDENBURG, X...
RICHARD L. BRASEL, X...
RICHARD P. BRECKENRIDGE, X...
ROBERT J. BRENNAN, X...
STEPHEN G. BRENNAN, X...
WILLIAM D. BRENNAN, X...
ROBERT A. BREWER, JR., X...
TIMOTHY B. BREWER, X...
KRISTINE A. BRIDGES, X...
BRUCE W. BRISSON, X...
STEVEN G. BROCKETT, X...
JENNIFER E. BROOKS, X...
MICHAEL G. BROOKS, X...
THOMAS L. BROWN, II, X...
JOHN L. BUCKLES, X...
FREDERICK B. BUONI, II, X...
EDWIN J. BURDICK, X...
STEPHEN V. BURKE, X...
WILLIAM N. BURNETTE, X...
JERRY K. BURROUGHS, X...
JERILYN B. BUSCH, X...
STEPHEN L. BUSS, X...
RICHARD W. BUTLER, X...
MICHAEL W. BYMAN, X...
JAMES J. BYRNE, JR., X...
MARK D. CAHILL, X...
MAUREEN M. CAHILL, X...
KENT G. CALDWELL, X...
ALFRED J. CAMP, JR., X...
SHARON B. L. CAMPBELL, X...
WELDON J. CAMPBELL, JR., X...
RENE A. CAMPOS, X...
MICHAEL A. CAPASSO, X...
JOSEPH G. CAPSTAFF, X...
CHRISTOPHER A. CARBOTT, X...
RONALD R. CARLSON, X...
EDWARD P. CARROLL, II, X...
EVON B. CARTER, X...
EMIL C. CASCIANO, X...
BENJAMIN A. CATHEY, X...
NEIL A. CATLETT, X...
RICHARD G. CATOIRE, X...
CHARLES F. CAUDILL, JR., X...
RICHARD C. CECCONI, X...
GEORGE A. J. CHAMBERLAIN, X...
JAY M. CHESNUT, X...
CURTIS S. CHESNUTT, X...
A. P. CHESTER, III, X...
LONNIE T. CHIDESTER, X...
JOHN H. CHILTON, JR., X...
CAROL L. CHRISTMAN, X...
THOMAS M. CLEMONS, III, X...
HUBERT D. CLOPP, X...
WILLIAM H. COGAN, X...
KENNETH C. COGGINS, X...
JAMES A. COLE, JR., X...
PATRICIA COLE, X...
THOMAS V. COLE, X...
ALFRED COLLINS, X...
JANEANN T. CONLEY, X...
KENNETH B. CONLEY, X...
CHARLES B. CONNERS, X...
MARK E. CONVERSE, X...
HUGH H. COOK III, X...
RICHARD H. COOK, X...
TIMOTHY E. COOLIDGE, X...
WILLIAM T. COONEY, X...
JUSTIN D. COOPER II, X...
JOHN P. CORAY, X...
MICHAEL J. CORTESE, X...
JOHN J. COSTELLO, X...
RICHARD J. COSTON, X...
JOHN M. COUGHLIN, X...
JOHN W. COVELL, X...
BRIEN M. COWAN, X...
GEORGE A. COY, X...
LAWRENCE S. COY, X...
FRANCES K.B. COYLE, X...
CALVIN H. CRAIG, X...
KYLE M. CRAIGIE, X...
PAUL D. CRAIN, X...
JOSEPH D. CREED, X...
THOMAS R. CRIGER, X...
DALE A. CROTHERS, X...
RICHARD M. CROWELL, X...
MICHAEL P. CROWLEY, X...
STEVEN D. CULPEPPER, X...
JEFFREY S. CURRER, X...
RICHARD B. CUTTING, X...
JAMES E. DALBERG, JR., X...
MICHAEL N. DALFONSO, X...
FRANK D. DALTON, JR., X...
WILLIAM F. DANELLA, X...
EDWARD G. DANIELS, X...
JEFFREY R. DANSHAW, X...
MARK W. DARRAH, X...
KENNETH E. DAVEY, X...
JOHN C. DAVIDSON, X...
PHILIP S. DAVIDSON, X...
MARSDEN S. DAVIS, JR., X...
STEPHANIE K. DAVIS, X...
STEPHEN F. DAVIS, JR., X...
WILLIAM J. DAVIS, JR., X...
STEVEN P. DAVITO, X...
GLENN A. DAY, X...
RICHARD S. DEHART, X...
EDWARD J. DELANEY, X...
RENE R. DELROSARIO, X...
CARLOS DELTORO, X...
WILLIAM O. DERR, JR., X...
ERIC E. DEVITA, X...
STEPHEN B. DIETZ III, X...
KARL L. DINKLER, X...
DAVID R. DIORIO, X...
MICHAEL D. DISANO, X...
TIMOTHY A. DISHER, X...
DANIEL N. DIXON, X...
DOMINIC S. DIXON, X...
JAMES C. DIXON, X...
STEVEN H. DOHL, X...
MATTHEW H. DOLAN, X...
BRIAN T. DONEGAN, X...
JAMES M. DONOVAN, X...
WILLIAM T. DONOVAN, JR., X...
PATRICK J. DOUGHERTY, X...
THOMAS J. DOUGHERTY, X...
STEPHANIE A. DOUGLAS, X...
MICHAEL W. DOUGLASS, X...
JONATHAN A. DOWELL, X...
HAMPTON H. DOWLING, X...
CHRISTOPHER J. DRENNEN, X...
PETER U. DREXLER, X...
VINCENT DROUILLARD, X...
GERARD DUFFY, X...
WILLIAM C. DUKE, X...
HOSONG DUPONT, X...
JOHN W. DZIMINOWICZ, X...
STEVEN A. EATON, X...
JAMES D. EBERHART, X...
ANDREW W. EDDOWES, X...
GENE H. EDWARDS III, X...
WILLIAM R. EDWARDS, X...
GREG A. EISMAN, X...
DANA J. ELLIS, X...
DAVID B. EMICH, X...
DIANE M. ENBODY, X...
MICHAEL P. ENRIGHT, X...
DELL W. EPPERSON, X...
ROBERT F. ESSMANN, X...
LAWRENCE T. EVANS, X...
ROBERT S. EWIGLEBEN, X...
KEVIN S. EYER, X...
MATTHEW J. FALETTI, X...
TIM P. FALEY, X...
DAVID C. FALK, X...
CRAIG S. FALLER, X...
MARK C. FARLEY, X...
IAN B. FARQUHARSON, X...
BRIAN L. FAULHABER, X...
MARK C. FEALLOCK, X...
KARLA P. FEARS, X...
BRUCE W. FECHT, X...
PATRICK J. FELTS, X...
JOHN A. FERRER, X...
ROBERT A. FFIELD, X...
JOHN T. FINCH, X...
ALAN L. FINK, X...
JOANNE M. FISH, X...
PAUL D. FISHER, X...
OSA E. FITCH, X...
WILLIAM J. FLANAGAN, JR., X...
JOHN V. FOLEY, X...
DOUGLAS L. FOSTER, X...
MICHAEL D. FOSTER, X...
LISA E. FRAILEY, X...
STEVEN C. FRAKE, X...
KENNETH W. FREEMAN, X...
DOROTHY J. FREER, X...
GREGORY P. FRENCH, X...
PAUL J. FROST, X...
DAVID J. FUHRMANN, X...
ANDREW B. FULLER, X...
ORMAN K. FULLER, X...
STEVEN P. FULTON, X...

WILLIAM D. FUSON, X...
ANTHONY E. GAIANI, X...
DANIEL J. GALLAGHER, X...
ANTHONY R. GALLOP, X...
CLAUDE V. GALLUZZO, X...
RALPH M. GAMBONE, X...
STEVEN J. GASPAROVICH, X...
BRIAN ROBERT GATES, X...
BRIAN G. GAWNE, X...
JOHN M. GERAGOTELIS, X...
GREGORY S. GILBERT, X...
PATRICK C. GILL, X...
STERLING G. GILLIAM, JR., X...
LEE S. GINGERY, X...
RAYMOND B. GINNETTI, X...
ROBERT P. GIRRIER, X...
MICHAEL H. GLASER, X...
TIMOTHY R. GLASOW, X...
WILLIAM G. GLENN, X...
JOHN G. GOETZ, X...
CURT W. GOLDDACKER, X...
WILLIAM H. GOODALE II, X...
THOMAS D. GOODWIN, X...
MARK L. GORENFLO, X...
JOHN F. GOUGH, JR., X...
ROBERT D. GOURLEY, X...
TERRY L. GOWEN, X...
KEVIN H. GRAFFIS, X...
WARREN C. GRAHAM III, X...
PETER F. GRAUSE, X...
ROBERT P. GRAY, X...
ALBERT J. GRECCO, X...
DANIEL S. GREER, X...
JAMES GREGORSKI, X...
STERLING R. GRENI, X...
WILLIAM T. GRIFFIN, X...
ROBERT B. GRIMM, X...
PAUL A. GROSKLAGS, X...
DOUGLAS J. GROTERS, X...
ANTHONY M. GRUBER, X...
WAYNE N. GRUMNEY, X...
HANS GULICK, X...
STEPHEN L. GUSE, X...
MICHAEL F. HAFFNER, X...
TIMOTHY P. HAGAN, X...
MARK R. HAGEROTT, X...
RICHARD P. HAJEK, X...
ANDREW M. HALE, X...
PATRICK D. HALL, X...
DAVID E. HALLADAY, X...
JOSEPH W. HANKINS, X...
JEFFREY W. HANSEN, X...
CRAIG D. HANSON, X...
JOHN F. HARDISON, X...
JAMES V. HARDY, X...
JEFFREY A. HARLEY, X...
ROBERT L. HARNED, X...
KIRK N. HARNESS, X...
SINCLAIR M. HARRIS, X...
RICHARD E. HARRISON, X...
EDWARD W. HARTER, X...
ANNEMARIE HARTLAUB, X...
KENNETH J. HARVEY, X...
TODD A. HAUGE, X...
RANDALL L. HAUKE, X...
LARRY O. HAUKENES, X...
KATHERINE M. HAWLEY, X...
NORMAN R. HAYES, X...
PETER S. K. HAYES, X...
PAUL F. HEALY, X...
DENNIS P. HEIDENTHAL, X...
MARK J. HELLSTERN, X...
DAVID M. HENDRICKS, X...
TERENCE HENN, X...
PAUL E. HENNES, X...
KENNETH A. HERMANSON, X...
RONALD L. HERNDON, X...
CHARLES M. HERON, X...
MICHAEL W. HEWITT, X...
JAMES E. HIGGINS III, X...
DAVID S. HILL, X...
JEFFERY M. HILL, X...
PAUL D. HILL, X...
ERIC R. HINGER, X...
BRIAN E. HINKLEY, X...
THOMAS H. HODGSON, X...
GEORGE F. HOFFER, X...
JAMES E. HOGAN, X...
THOMAS R. HOGAN, X...
JOHN M. HOHL, X...
KEVIN T. HOLDEN, X...
JACK F. HOLLY, X...
NICHOLAS H. HOLMAN IV, X...
KENNETH A. HOLMSTRUP, X...
ELDRIDGE HORD III, X...
DAVID B. HORTON, X...
RONALD HORTON, X...
JONATHAN P. HOUSER, X...
MICHELLE J. HOWARD, X...
JAMES M. HUDSON, JR., X...
JOSEPH S. HUEY, X...
MICHAEL D. HUFF, X...
THOMAS W. HUFF, X...
JEFFREY M. HUGHES, X...
WILLIAM N. HUGHES, X...
DAVID C. HULSE, X...
MARTIN D. HUNDLEY, X...
ROBERT A. HUNT, X...
JAMES F. HUNTER, X...
MARK R. HUNTER, X...
BRICK R. IMERMAN, X...
RONALD K. IMHOF, X...
AVGI IOANNIDIS, X...
ROMERO G. IRAL, X...
MICHAEL J. JACOBSEN, X...
PAUL N. JAENICHEN, X...
RUSSELL T. JANICKE, X...
PATRICK L. JECK, X...
JAMES M. JEPSON, X...
ALAN F. JOHNSON, X...
BRUCE L. JOHNSON, X...
DAVID C. JOHNSON, X...
KELLY M. JOHNSON, X...
KEVIN C. JOHNSON, X...
LEE R. JOHNSON, JR., X...
MARC J. JOHNSON, X...
WILLIAM H. JOHNSON, X...
EUGENE W. JONES, X...
EVAN S. JONES, X...
JEFFREY J. JONES, X...
WILLIAM R. JONSON, X...
JACK E. JOYNSON, JR., X...
STEVEN R. JUNG, X...
GLEN E. KAEMMERER, JR., X...
GEORGE H. KAHLERT, JR., X...
ROBERT C. KALLIO, X...
JONATHAN H. KAN, X...
ERIC G. KANIUT, X...
MICHAEL A. KANTOR, JR., X...
ROBERT E. KAPCIO, X...
CHARLES T. KEEN III, X...
KEVIN J. KEILTY, X...
WILLIAM J. KELLERHALS, X...
JAMES E. KELLY, X...
ROBERT D. KELSO, X...
HEATH R. KEMMAN, X...
PAUL R.B. KENNEDY, X...
RONALD W. KENNEDY, X...
MICHAEL A. KENNERSON, X...
ROBERT S. KERNO, JR., X...
MARGARET A. KERRMCKOWN, X...
PAUL R. KERSTANSKI XX...
KEVIN M. KEUTMANN, X...
CURTIS A. KHOL, X...
CHRISTOPHER W. KILEY, X...
GEORGE F. KILIAN, X...
HAROLD S. KING, X...
JOEL D. KING, X...
STEPHEN C. KINGSTON, X...
MARK S. KINNANE, X...
LUTHER D. KINSEY, X...
STEPHEN H. KIRBY, X...
ROBERT M. KIRK, X...
ROBERT E. KISER, X...
PETER W. KLAUSE, X...
JOHN F. KLEMENC, X...
STEVEN E. KLEMENCIC X...
NANCY V.C. KNEIPP, X...
RUSSELL P. KNIGHT, X...
KAREN M. KOHANOWICH, X...
MARK A. KOHART, X...
ALBERT H. KOHNLE, JR., X...
DAVID M. KOONTZ, X...
ROBERT G. KOPAS, X...
MARK S. KOROMHAS, X...
WILLIAM J. KOVACH, X...
KEVIN J. KOVACICH, X...
GARY L. KREEGER, X...
DAVID KREV, X...
DEBOARAH S. KRUCIAK, X...
JAMES H. KRUSE, X...
EDWARD E. KRUSEMARK, X...
JOHN T. KUEHN, X...
JAMES K. KUHN, X...
JOHN A. KUMMER, X...
JONATHAN D. KURTZ, X...
CLAYTON B. KYKER, X...
ROBERT A. LALLY, X...
VINCENT L. LAMOLINARA, X...
FREDERIC D. LANCASTER, X...
MARK F. LANDERS, X...
LARRY W. LASKY, X...
DAVID A. LAUSMAN, X...
TIMOTHY J. LAWRENCE, X...
DANIEL E. LEADER, X...
MARK M. LEARY, X...
ROCKY R. LEE, X...
CARROLL F. LEFON, JR., X...
CHARLOTTE V. LEIDY, X...
WILLIAM E. LEIGHER, X...
DAVID A. LENNOX, X...
RUTH S. LESCHER, X...
STEPHEN W. LESLIE, X...
BERNARD O. LESSARD, X...
LINDSEY LESTERBRUTSCHER, X...
ADAM S. LEVITT, X...
KENNETH A. LILES, X...
STEPHEN R. LILLY, X...
BRUCE H. LINDSEY, X...
JOHN J. LITHERLAND, X...
JOHN D. LITTLE, X...
JOHN W. LITTLE, JR., X...
RONALD A. LITTLE, X...
MARK S. LITTLETON, X...
MENDAL S. LIVEZEY, X...
CHARLES M.S. LIVINGSTON, X...
CHARLES E. LOCKETT, X...
MICHAEL LOCKETT, X...
JOHN L. LOCKLER, X...
JOHN P. LONG, X...
BRIAN T. LOONEY, X...
TERRY L.L. LOVE, X...
JOHN L. LOVERING, JR., X...
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FRANK J.M. LOWERY, X...
STEVEN C. LOWRY, X...
RUSSELL P. LUEHRSEN, X...
SHERMAN R. LUPTON, X...
WALTER E. LUTHIGER, X...
DANIEL J. LYNCH, X...
ANTHONY M. LYONS, X...
BRIAN X. MACK, X...
DANIEL P. MACK, X...
STEVEN C. MACKIE, X...
ANDREW T. MACYKO, X...
STEVEN A. MALLOY, X...
DAVID P. MALONEY, X...
ROBERT L. MALOUIN, JR. XX...
SHAWN D. MANK, X...
DOLORES R. MANLEY, X...
JOHN K. MANNING, X...
STEPHEN G. MARR, X...
BRADLEY D. MARTIN, X...
DUANE H. MARTIN, X...
MICHAEL L. MARTIN, X...
THOMAS L. MASCOLO, X...
DAVID F. MATAWITZ, X...
WAYNE J. MATHE, X...
DANIEL E. MATHIS, X...
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MICHAEL F. MCCARTHY, X...
JOSEPH S. MCCLAIN, X...
LOWELL V. MCCLINTOCK, X...
MATTHEW J. MCCLOSKEY, X...
ROBERT M. MCCLOSKEY, X...
MICHAEL D. MCCLURE, X...
ANGUS A. MCCOLL, X...
WILLIAM C. MCCOOL, X...
MICHAEL R. MCDERMOTT, X...
MARK T. MCDONALD, X...
JOHN D. MCGARRY, X...
DEBORAH A. MCGHEE, X...
PHILIP J. MCKENNA, X...
JEFFREY E. MCLEAN, X...
LINDA H. MCMEANS, X...
ROBERT B. MCWHORTER, X...
DAVID A. MEE, X...
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KEITH B. MENZ, X...
VICTORINO G. MERCADO, X...
CHARLES K. MERKEL, JR., X...
ROXIE T. MERRITT, X...
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ROBERT W. MILLER, X...
SCOTT D. MILLER, X...
PATRICK M. MILLETT, X...
ENRIQUE F. MIRANDA, X...
ANTHONY E. MITCHELL, X...
RUTH A. MOHR, X...
VALERIE A. MOOT, X...
WILLIAM MORALES, X...
EUGENE F. MORAN, X...
RONALD B. MORANVILLE, X...
DARREL M. MORBEN, X...
JEFFREY A. MORRIS, X...
MICHAEL J. MORRIS, X...
JONATHAN D. MOSIER, X...
ERIC B. MOSS, X...
FRANCIS N. MOULDS, X...
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GREGORY C. MUIR, X...
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MICHAEL J. MULLIGAN, X...
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MARK A. MURPHY, X...
VINCENT J. MUSCARELLO, X...
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CHARLES J. NEARY, X...
SEAN G. NEILAN, X...
MAUREEN A. NEVILLE, X...
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BOB R. NICHOLSON, X...
PATRICK D. NICKENS, X...
RICHARD B. NICKLAS, X...
WESLEY S. NIELSEN, X...
WILLIAM NIVISON, JR., X...
JOSEPH F. NOLAN, X...
BRIAN K. NUTT, X...
LEWIS C. NYGARD, X...
KEVIN W. OAKES, X...
RONALD J. OARD II, X...
JOHN C. OBERST, X...
MARI C. OBNINSKY, X...
KENNETH G. O'BRIEN, X...
DAVID J. O'CONNOR, X...
JOHN O'DONNELL, R. X...
ERIC J. OKERSTROM, X...
VICTOR R. OLIVAREZ, X...
MARTIN F. O'LOUGHLIN, X...
JONATHAN J. OLSON, X...
MARK J. OLSON, X...
DENNIS J. O'MEARA, X...
GERARD O'REGAN, X...
ALAN OSHIRAK, X...
JOHN T. OSTLUND, X...
DOUGLAS E. OTTE, X...
KENNETH J. OUKROP, X...
BERNT L. OYDNA, X...

BURT T. PALMER, X...
ROBERT P. PAPADAKIS, X...
PHILLIP C. PARDUE, X...
KIN A. PARKER, X...
RONALD G. PARSON, X...
PHILLIP G. PATTEE, X...
SHEILA A. PATTERSON, X...
MICHAEL S. PAUL, X...
KYRA V. PAULI, X...
DAVID D. PAULS, X...
DAVID S. PAUTSCH, X...
FREDRICK D. J. PAWLOWSKI, X...
THOMAS J. PAYNE, X...
JEFFREY R. PENFIELD, X...
FRANCIS D. PENNYPACKER, X...
DAVID A. PERRETTA, X...
GARY C. PETERSON, X...
WILLIAM T. PETERSON, X...
WILLIAM S. PETRIE, X...
ROBERT J. PETRY, X...
ANN C. PHILLIPS, X...
DAVID T. PHILLIPS, X...
CHARLES H. PIERSALL III, X...
DAVID R. PINE, X...
HENRY A. PITTS, X...
MICHEL T. POIRIER, X...
STEPHEN J. POLLARD, X...
JOHN M. POLLIN, X...
FERNANDEZ L. PONDS, X...
CLYDE C. PORTER, JR., X...
RICHARD J. POSTERA, X...
GARY P. POTKAY, X...
CRAIG D. POWELL, X...
JEFFREY T. POWERS, X...
DAVID L. PRATER, X...
JEROME R. PROVENCHER, JR., X...
DAVID A. RADI, X...
EDWIN V. RAHME, JR., X...
RAOUL A. RALL, X...
DOUGLAS S. RANDLETT, X...
FRANCIS F. RANDOLPH, X...
JOSEPH P. RARDIN, X...
CHRISTOPHER S. RATLIFF, X...
MARK E. REDDEN, X...
THOMAS L. REESE, X...
KEVIN D. REILLY, X...
TOD F. REINERT, X...
RICHARD E. REINKE III, X...
WARREN E. RHOADES III, X...
RALPH H. RICARDO, JR., X...
PAUL J. RICCIUTI, X...
MARKHAM K. RICH, X...
CHARLES A. RICHARD, X...
JEFFREY H. RICHARDS, X...
RANDALL G. RICHARDS, X...
SAMUEL B. RICHARDSON, X...
PAUL E. RIDENOUR, X...
MARK R. RIOS, X...
CATHERINE D. RIPLEY, X...
CLAUDIA M. A. RISNER, X...
JONATHAN G. ROARK, X...
WILLIAM J. ROBERTSON, X...
HARRY M. ROBINSON, X...
PATRICK W. ROLFE, X...
JULIA A. ROOS, X...
JOHN B. ROSANDER, X...
ROBERT L. ROUNTREE JR., X...
WILLIAM J. ROZWOOD, X...
GREGORY, RUCCI, X...
TERRY L. RUCKER, X...
RICHARD J. RUEHLIN, X...
DAVID G. RUFF, X...
PETER B. RUSH, X...
ROBIN L. RUSSELL, X...
STEPHEN S. RUTH, X...
GORDON B. RUTHERFORD, X...
BERNARD T. RYAN, X...
EDMUND K. RYBOLD, JR., X...
KURT R. SADORF, X...
GARY SANDALA, X...
JAMES A. SASS, X...
PETER D. SAUVE, X...
PHILLIP G. SAWYER, X...
PATRICK J. SCANLON, X...
SHEILA A. SCARBOROUGH, X...
MATTHEW T. SCASSERO, X...
MICHAEL D. SCAVONE, X...
PAUL A. SCHACK, X...
DAVID A. SCHMICK, X...
WILLIAM G. SCHMIDLIN, X...
ROBERT J. SCHMIDT, X...
STEVEN H. SCHULTE, X...
CHRISTOPHER J. SCHULZ, X...
JOHN E. SCHWERING, JR., X...
JOHN C. SCORBY, JR., X...
JAMES G. SCOTT, X...
KEVIN D. SCOTT, X...
VINCENT M. SCOTT, X...
EDWARD B. SEAL, X...
GLEN R. SEARS, II, X...
LARRY F. SEELEY, JR., X...
MARK T. SEELEY, X...
VINCENT L. J. SEIFERD, X...
ROBERT D. SELIGMAN, X...
CLAY W. SELLERS, X...
JAMES D. SETTELE, X...
CHARLES H. SEWALL, X...
DONALD G. SEYBOLD, X...
JOHN A. SHAKESPEARE, X...
MATTHEW M. SHARPE, X...
MARTIN J. SHAUNESSY, X...
JOHNATHAN D. SHAW, X...
MICHAEL G. SHEA, X...
LINDA W. SHEDLOCK, X...
JOHN C. SHEEHAN, X...
WILLIAM A. SHEEHAN, X...
KEVIN B. SHERMAN, X...
PETER S. SHERMAN, X...
GERALD SHERRILL, X...
PAUL R. SHIGLEY, X...
BERNARD V. SHINAL, X...
GARY L. SHIPLE, X...
DONALD R. J. SHUNKWILER, X...
PAUL W. SIEGRIST, X...
MACK A. SIGMAN, X...
RICHARD L. SIMON, X...
DAVID G. SIMPSON, X...
ROBERT A. SIMS, X...
DENNIS J. SINNETT, X...
TAYLOR W. SKARDON, X...
CHAD M. SKIDMORE, X...
DOUGLAS E. SMITH, X...
FRED C. SMITH, X...
GERALD N. SMITH, X...
GREGG K. SMITH, X...
HENRY C. SMITH, X...
JOHN W. SMITH, JR., X...
MICHAEL E. SMITH, X...
MICHAEL W. SMITH, X...
PAUL C. SMITH, X...
RICHARD W. SMITH, X...
RUSSELL H. SMITH, X...
STEPHEN M. SMOOT, X...
GLENN R. SNYDER, X...
JOHN C. SNYDER, X...
MURRAY R. SNYDER, X...
RICHARD P. SNYDER, X...
ROBERT S. SOMMERS, X...
SEAN D. SORENSEN, X...
RALPH T. SOULE, X...
JOSEPH D. SPITZ, X...
DAVID R. SPOERL, X...
WILLIAM C. STACIA, JR., X...
VINCENT A. STAMMETTI, X...
SCOTT M. STANLEY, X...
LOWELL S. STANTON, X...
MARK T. STAPLES, X...
SCOTT A. STEARNEY, X...
MICHAEL T. STEED, X...
BRAD A. STEELE, X...
JAMES P. STEELE, III, X...
SEAN A. STEEVES, X...
SCOTT A. STEPHENSON, X...
CURTIS R. STEVENS, X...
JOHN J. STEVENS III, X...
STEVEN L. STEVENS, X...
WARD E. STEVENS, X...
DAVID C. STEWART, X...
JAY T. STOCKS, X...
GREGORY J. SULLIVAN, X...
STEPHEN W. SURKO, X...
PETER B.R. SUTHON, X...
JAMES J. SWEENEY, X...
KEVIN M. SWEENEY, X...
MICHAEL J. SWEENEY, X...
STEVEN R. SWICEGOOD, X...
CHARLES C. SWICKER, X...
NELSON C. TABINGA, X...
THOMAS A. TACK, X...
CHARLES E. TAMBLYN, X...
NANCY L. TANNER, X...
SCOTT J. TAPPAN, X...
DAVID C. TAYLOR, X...
WINFORD J. TAYLOR, X...
JOHN B. THOMA, X...
JEFFREY N. THOMAS, X...
SCOTT E. THOMAS, X...
EVIN H. THOMPSON, X...
LEROY D. THOMPSON, X...
ROGER K. THORSTENSON, X...
PATRICK K. THURMAN, X...
STEPHEN K. TIBBITTS, X...
SCOTT M. TILDEN, X...
FRANK J. TINKER, X...
JOSEPH E. TOFALO, X...
CURTIS W. TOOMER, X...
RONALD P. TOWNSEND, X...
STEPHEN C. TRAINOR, X...
WILLIAM F. TRAUB, X...
MARK B. TREADWELL, X...
M.K. TRIBBIE, X...
WILLIAM B. TRIMBLE, X...
TIMOTHY T. TUCKER, X...
LORI F. TURLEY, X...
HENRY V. TURNER, X...
MICHAEL W. ULLRICH, X...
DONALD K. ULRICH, X...
MICHAEL C. URQUHART, X...
FRANK E. VALENTE, X...
RICHARD E. VANDENHEUVEL, X...
PERRY F. VANHOOSER II, X...
ERIC A. VANHOVE, X...
THOMAS P. VANLEUNEN, JR., X...
KEVIN S. VANSLOTEN, X...
RAYMOND E. VANZWIENEN, X...
RENE VELEZ, X...
DOUGLAS J. VENLET, X...
ROBERT M. VERBOS, X...
FERNANDO T. VILLANUEVA, X...
JOHN J. VINIOTIS, X...
RICHARD S. VOTER, X...
ANTHONY A. VRAA, X...
JAMES S. WAGNER, X...
WILLIAM B. WALKER, X...
JAMES G. WALLACE, X...
GORDON T. WALTON, X...
RALPH C. WARD, JR., X...
VICTOR G. WARRINER, JR., X...
BILLY J. WASHINGTON, X...
TIMOTHY M. WATERFIELD, X...
CHERI D. WATERFORD, X...
TIMOTHY L. WATKINS, X...
RICHARD W. WATSON, X...
STEPHEN J. WATSON, X...
DAVID W. WAUGH, X...
MALCOLM L. WEATHERBIE, X...
ALLISON D. WEBSTERGIDDINGS, X...
THOMAS E. WEDDING, X...
HARRY E. WEDEWER, X...
DANIEL L. WEED, X...
TONY M. WEEKS, X...
SIDNEY J. WEGERT II, X...
DAVID G. WEGMANN, X...
MARK S. WELSH, X...
JOSEPH D. WELTER, X...
WARREN C. WHEELER, X...
JAMES C. WHITAKER, X...
PETER S. WHITE, X...
JAMES L. WHITTINGTON, X...
CAROL A. WILDER, X...
CATHY M. WILLIAMS, X...
DONOVAN J. WILLIAMS, X...
ROGER D. WILLIAMS, X...
EDWIN F. WILLIAMSON, X...
JEFFERY S. WILSON, X...
KEVIN J. WILSON, X...
WILLIAM H. WILSON II, X...
GREGORY J. WITTMAN, X...
GEORGE G. WOMACK, X...
RANDOLPH L. WOOD, X...
BRUCE L. WOODYARD, X...
MARK E. WRALSTAD, X...
ROBERT C. WRIGHT, JR., X...
WILLIAM A. WRIGHT III, X...
ROBERT P. WYLLY, X...
MARION D. YANCEY, X...
PHILIP A. YATES, X...
HERBERT YEE, X...
BRIAN C. YETKA, X...
JOSEPH B. YODZIS, X...
JAMES R. YOHE, X...
MARCUS B. YONEHIRO, X...
JACQUELINE C. YOST, X...
PETER H. YOUNG, X...
STEPHEN E. YOXHEIMER, X...
ULYSSES O. ZALAMEA, X...
MICHAEL E. ZAMESNIK, X...
JOHN A. ZANGARDI, X...
GUY W. ZANTI, X...
STEVEN C. ZARICOR, X...
DAVID O. ZIMMERMAN, X...
CLAY A. ZOCHER, X...
ERIC A. ZOEHRER, X...

DEPARTMENT OF LABOR

KATHARINE G. ABRAHAM, OF IOWA, TO BE COMMISSIONER OF LABOR STATISTICS, U.S. DEPARTMENT OF LABOR, FOR A TERM OF 4 YEARS. (REAPPOINTMENT)

DEPARTMENT OF STATE

CORINNE CLAIBORNE BOGGS, OF LOUISIANA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE HOLY SEE.

STEPHEN W. BOSWORTH, OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

DEPARTMENT OF LABOR

SUSAN ROBINSON KING, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE SUSAN ROBINSON KING, RESIGNED.

DEPARTMENT OF STATE

JOSEPH A. PRESEL, OF RHODE ISLAND, 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 UZBEKISTAN.

THE JUDICIARY

RICHARD W. STORY, OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE WILLIAM C. O'KELLEY, RETIRED.