SENATE—*Saturday, November 8, 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 Lord, You have created us to know, love, and serve You. Thanksgiving is the memory of our hearts. You have shown us that gratitude is the parent of all other virtues. Without gratitude, we miss the greatness You intended and often become proud and self-centered. Thanksgiving is the thermostat of our souls, opening us to the inflow of Your spirit and the realization of even greater blessings.

We want to live this day with an attitude of gratitude for all of the gifts of life: for intellect and emotion, will, strength, fortitude, and courage. We are privileged to live in this free land so richly blessed by You.

Thank You Father for the women and men of this Senate and for all who work with them to lead this Nation. May this Saturday session be productive, bring resolution to conflicts, and the completion of unfinished legislation. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Idaho, is recognized.

Mr. CRAIG. Thank you, Mr. President.

SCHEDULE

Mr. CRAIG. Mr. President, today there will be a period for the transaction of morning business until 1 p.m. Following morning business, the Senate will consider the Labor-HHS appropriations conference report. The leader anticipates 90 minutes of debate and a rollcall vote on the adoption of the conference report. Therefore, the first vote today will occur at approximately 2:30 p.m.

Following that vote, the Senate may be asked to consider an appropriations matter to be offered by the chairman and ranking member shortly after the vote at 2:30. Therefore, additional votes can be expected during Saturday's session of the Senate.

Since these are hopefully the last few days of the session for the 1st session of the 105th Congress, many items are in the process of being cleared for consideration by the Senate. Some of those items include the FDA reform conference report, the adoption/foster care legislation and Executive Calendar nominations. Therefore, the cooperation of all Senators would certainly be appreciated.

Mr. President, let me say briefly that the adoption/foster care legislation, I understand, is now nearly cleared. It is an effort that I, along with Senator CHAFEE and Senator ROCKEFELLER—and a good many others—Senator COATS, Senator DEWINE have worked on cooperatively with our staffs over the last several months. We think we have an excellent agreement that will reform the foster care system of our country, stop us from warehousing children, move them into adoption, and grant them an opportunity for a permanent and loving home. We hope that can move before we adjourn this 1st session of the 105th Congress.

Mr. President, with all of the other considerations, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ACCOMPANYING H.R. 2264

Mr. THOMAS. Mr. President, I ask unanimous consent that at 1 p.m. today, the Senate begin consideration of the conference report to accompany H.R. 2264, the Labor-HHS appropriations bill. I further ask unanimous consent that there be 90 minutes for debate, equally divided between the chairman and the ranking member. Finally, I ask unanimous consent that at the expiration or yielding back of time, the Senate proceed to vote on the adoption of the conference report, with no intervening action or debate.

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for up to 10 minutes each.

Mr. THOMAS. Mr. President, I would like to speak in morning business.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

NATIONAL PARKS

Mr. THOMAS. Mr. President, I want to take the time that we have available this morning while we are waiting for these important closing activities—I hope closing activities—to talk a little bit about an issue that I feel very strongly about and that I think most people do, and that is our national parks and our national parks plan.

I am chairman of the Subcommittee on National Parks, and we have spent almost this entire year working on a program to help strengthen the parks. Certainly, the National Park System is truly one of our treasures.

The Park System is the custodian of some of America's most important natural and cultural resources and provides, of course, a legacy for our children and our grandchildren.

The Park System today consists of about 374 units which are visited annually by millions of people. They stretch all the way from Acadia in Maine to American Samoa in the Pacific islands and provide a unique opportunity.

I, of course, am particularly selfishly interested in parks because I come from Wyoming. We have the first national park which recently celebrated its 125th anniversary—Yellowstone. We also of course have Teton Park. But the whole country has a park system that we are extremely proud of.

Unfortunately, that System is and has been under considerable stress. At the time that we have showed unusual interest in it as Americans, and have increased our visitations, the park has had increasing difficulties. We are believed to have somewhere near $8 billion in unfunded and unrealized infrastructure repairs of various kinds. That is a great deal of money.

We also have had some stress in terms of management in many of those things. So we worked this year and intend, as a matter of fact, to have some field hearings in November; particularly we have one set for Denver and one for San Francisco, and we hope then to have one later in Florida near the Everglades, to try and bring in as much information as we can get on the issues and how they affect people.

The issues are broken down, as you might imagine, into several categories. One of them is finance. That is one of the basic ones, of course. As I mentioned, we have an overwhelming amount of unfunded programs: $2.2 billion in road and bridge repair; $1.5 billion in buildings and maintenance; $800

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

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million in natural resource management kinds of things. They are the kinds of things that are very difficult to manage in an annual budget.

So we are looking for some ways to do this a little bit differently. We are looking at a number of things. One would be to extend the temporary program for fees, where fees have been raised in a number of the parks, about 100 I think out of the 375 parks. They have been very low. And it has been $10 a car at Yellowstone for a whole carload of people for a week. I think it has now gone to $20. And, frankly, we found very little resistance to that, particularly if people believe the money they are spending going to that park will be used to make that park a better place to visit.

In addition to fees, of course, it will be our responsibility, Mr. President, as Members of Congress, to keep the appropriations growing some for that. We had an increase in appropriations this year. We need to continue to do that.

In addition to entrance fees, we are looking at ways for people to contribute, private individuals to contribute to parks. Many want to do that. There are park foundations in individual parks. We need to find some ways for Americans who chose to, to be able to contribute more to the maintenance of parks.

We are also looking at a way for corporate investment as well, without commercializing parks. We do not want "Pepsi-Cola" painted up on the wall of Yosemite. But there isn't any reason why there cannot be corporate donations made. For example, one of the corporations made a donation to build the walkway around Old Faithful. It is a wonderful addition. And there is a very small and unobtrusive sign there that indicates the sponsors of that. I think that is a good idea. I think we can continue to do that.

One of the things we are looking at is a way for bonding. Interestingly enough, the larger parks, like Yosemite, like Yellowstone are basically small cities. They have to have sewers, they have to have streets, they have to have housing, the kinds of things that take long-term investment. And it is very difficult to do it, as I mentioned a moment ago, out of annual appropriations.

So we are trying to find a way that the park could do some bonding in the private sector. I do not know whether these can be Government bonds, I do not know whether they can be tax-free bonds or taxable bonds. But in order to do that, we have a couple of problems I hope we can overcome.

One is the scoring system here in the budget of the United States. As you know, we do not have a capital budget. And so if you issue 300 million dollars' worth of bonds, that would all go into the annual budget. That is a difficult thing. We will have to try and overcome that. We hope that there are some ways to do it.

The other thing, of course, that is necessary to do bonding is to have a dependable and steady stream of revenue to pay off the bonds. We think we can do that. So those are a couple of the ways that we are seeking to do some things that would be good for parks.

In addition, many of the larger parks, as you know, the services—let me go back and say, I think most people would agree that the main purpose of a park is to maintain the resources, whether it be cultural or whether it be natural resources.

But the second and equally important part of it is to have a pleasant visit for Americans, who own those parks. To do that, by and large, we have had concessions that have been run by the private sector. I certainly support that idea. I think that is the way to do it. We have, unfortunately, kind of gotten out of sync in terms of doing the sort of contracting that is necessary.

We went through a while, a big debate a couple years ago as to whether the Government ought to own the facilities. I think we have overcome that and decided that is not what we want to do. So we need to go back to longer term contracts for some very large facilities.

I think there is about $700 million in gross revenue that comes from concessions in the whole Park System, which is a very sizable amount.

On the other hand, parks are not all big-profit operations because Glacier Park, for example, in Montana is only opened a portion of the year. And the season is rather shortened. So we have to deal with questions like: How long should the contract be for sizable investments? Should there be the right of renewal? Should there be some sort of proprietary ownership in these facilities at the time the contract exchange comes? So we are working with those things. I am positive that we can find some solutions.

I also want you to know that one of, I think, the key issues we are talking about with concessions—I mentioned to you this is a large commercial business. It is a commercial business. We think we ought to take a look at the idea of contracting with an asset manager out of the private sector who is a professional at managing hospitality things to do this. That is not really the role of a park ranger in terms of training and background.

As you know, Mr. President, I have been working as hard as I can to see if we can't move these commercial functions of the Government over into the private sector, at least give them an opportunity to bid on it. So that is one of the things that we are seeking to do.

I do not think that we are going to solve the financial problem out of the concessions by any means. But we ought to be able to do two things. We ought to be able to have good facilities that are kept up; and we ought to be able to have a small stream of revenue come to the parks. We think that might be one of the possibilities for doing something with the bonding revenue.

We are looking at improved management. The Park Service, after all, is a large agency, I think, with some of the most dedicated employees of any agency in the country. The people you talk to that work for the Park Service are really, really dedicated to doing what they do. They like to preserve the parks. They like to work in the parks. But they did not always have the opportunity, for instance, to be trained.

We are going to look at some university exchanges where folks could get some additional training and help them do their jobs. But I think more than anything it has become a large agency, and what we need is a strategic plan.

Any business of that size, any operation of that size needs a strategic plan that has some forward ideas as to how to solve problems. Frankly, that is kind of why we are where we are. There has not been any plans presented to the Congress. And the Congress has not taken the initiative to prepare plans to accommodate these problems that we now have, and problems of increased visitation. The highways, for example, in Yelowstone Park are way behind in preparation and care. So we need a strategic plan in the agency.

Probably at least as important then is each park, and each park manager, needs to have a strategic plan that contributes to the overall plan and one with measurable objectives and measurable goals so that you do not just have a plan that everybody thinks is wonderful but you have one that at the end of the year you can take a look at the plan and say you accomplished what you were going to or you did not. If you did not, there ought to be a reason why you did not. So we think we can do some good there.

Let me tell you that we are working very closely with the Park Service. And a new park director is now in place, Bob Stanton. His background as a career park official has been that he was the head of the parks here in this area. It was the first time, by the way, that the park director has been approved by the Senate. That was just changed so it is an appointment that has to be approved. So we are working with him. The Secretary of the Interior has talked favorably about some of the changes that need to be made.

Finally, one of the things we are doing is trying to take a look at the criteria for new parks. I think it is fairly well defined in terms of setting aside things that are important either historically or culturally or from a natural resource standpoint.

But, unfortunately—I think unfortunately—we have continued to add more

parks that do not necessarily fit that criteria. They are often recommended by Members of Congress who have an equivalent of a State or a county park in their area that they would like to have the Federal Government pay for. So they move it into the Park Service when it could just as well be a State park. And we find ourselves short of money to handle the 375 parks we have now, and continuing to increase with parks that may or may not fit the criteria.

So we are not as concerned about the criteria. I believe it exists there. But we are concerned and hopefully will change the process in which the criteria moves through the Congress so that there is an opportunity to do that.

So, Mr. President, these are the things that we are doing. We have purposely worked on it all this session. We did not intend to bring a bill this session, but we do intend to have one prepared for January. I think it is one of the things that most Americans are supportive of. Not everybody is going to be supportive of every proposal we have to do it, but I think there is general support for strengthening parks. There needs to be.

Certainly we have more and more people wanting to participate in them. So you have to recognize that as caring. So we will be moving forward on that. I think it is something that Congress ought to undertake, and be very proud to undertake.

There is great controversy over many of the environmental issues that go around. But there is not much controversy over this one. If we talk about what are the needs, are we going to try and fulfill those needs, most everybody says yes. Now, when you get to how you do it, obviously, there will be differences of view and debate. That is why we are here.

But, Mr. President, I am excited about this opportunity. We call our plan "Vision 2020," so that we can take a look at parks so that our kids, 20 years from now, and others, will be able to enjoy them with the same intensity that we have been able to.

We look forward to having our proposition ready by January. I hope many of the Members of the Senate will join with us in seeking to resolve this important question and problem.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WYDEN. I ask unanimous consent I be allowed to proceed for up to 15 minutes in morning business.

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

SENATE HOLDS

Mr. WYDEN. Mr. President, I rise today to take a few minutes to discuss the effort here in the Senate to eliminate the secrecy with which the Senate so often conducts business. Through a procedure that certainly isn't known to most Americans, it is possible for one U.S. Senator to unilaterally block this Senate from considering a piece of legislation or a nomination. This process is known as a hold. Certainly as we have seen in the last few days, a hold is an extraordinary power in the last few hours of a session in the U.S. Senate. In fact, it is fair to say in the last few hours of a session, a hold is essentially unbeatable.

Now, originally a hold was intended as a courtesy to a Senator. If the Senator couldn't be present at a particular time—there was an illness in the family, this sort of thing—they could put a hold on a measure or nomination, and that way, as a courtesy, the Senate would make sure it was brought up shortly thereafter when that Senator could be there.

But what has happened over the years is that the hold has been abused. At one point here fairly recently there were more than 40 holds on individuals, nominees, pieces of legislation, and it was all done in secret—all of it. At a time when the American people are so skeptical of the way business is done in Washington, DC, and so often understandably skeptical, the secret hold, the unilateral power of one Senator to block a bill or nomination and do it all in secret is something that is being abused, and abused especially at the end of a session of the U.S. Senate.

Senator GRASSLEY and I, on a bipartisan basis, have tried to eliminate the secrecy that surrounds these holds. We have said we are not quarreling with the proposition of a Member of the U.S. Senate to have this extraordinary power. Members of the Senate, under all other circumstances, are accountable to their constituents. But in this case they aren't accountable because they can exercise this power in secret.

Senator GRASSLEY and I offered what we don't think is exactly a radical idea, which is that when a Senator uses this power, it would be publicly disclosed. We said if a Senator uses this power, they should have to disclose the use of that hold in the CONGRESSIONAL RECORD within 48 hours of exercising their hold. That way, the U.S. Senate would know who is exercising this power, the American people would know who is exercising this power. If a Member of the U.S. Senate is doing the bidding of a powerful set of interests, it would be possible for everybody to know what exactly was taking place. So Senator GRASSLEY and I were able in the last weeks of the session to attach an anti-Senate-secrecy amendment so that when the use of the hold is applied, the American people would know who was blocking this body from considering a bill or nomination.

Now, as I understand it, there are discussions underway, in effect behind closed doors, behind closed doors without public debate, there is discussion of dropping an effort to end Senate secrecy. I will tell you, that doesn't pass the smell test. Killing a plan to end Senate secrecy behind closed doors isn't the way this body ought to be doing business. Certainly what we have seen in the last few weeks since Senator GRASSLEY and I prevailed on our proposal here in the Senate to end secrecy, is that there has been an explosive proliferation of the use of holds once again. There are countless bills and nominations that certainly deserve consideration. You can argue whether they deserve majority support, but they certainly deserve open debate, and they can't be brought to this floor because one Senator has secretly said no. One Senator has secretly said, "No, I will not allow discussion" of that particular topic.

The irony of all of this, Mr. President, is that often even Senators don't know when a hold has been placed in their name. I have had a number of Senators tell me since I've come to the Senate that they have been approached about holds. They were told they had a hold on a measure. It turned out the staff had put a hold on it without their even knowing about it. So it is one thing for an elected official, a Member of the U.S. Senate with an election certificate to exercise this extraordinary power; it is quite another to have those who are not elected exercise it. It highlights, again, how much this process has been abused of late.

I thought that the minority leader, Senator DASCHLE, captured the spirit of this situation the other day in his morning briefing with the press. Amid what reads on the transcript like pretty raucous laughter, the minority leader walked reporters through the variety of holds that there were on dozens of nominees at that time. In fact, he said, "If you don't have a hold, you ought to feel lonesome." The minority leader was pressed by reporters about who might be placing some of the holds, but the minority leader said he didn't know who was placing these holds. Some have said eventually you can find out who is exercising the hold. But I can tell my colleagues here in the U.S. Senate that even the minority leader is on record as saying he doesn't know who is placing these secret holds.

This secrecy, in my view, Mr. President, is not in keeping with the proud traditions of the U.S. Senate, and it is not in keeping with the fundamental spirit of openness and accountability that is at the heart of our democratic

process. I sought to serve in the U.S. Senate because I wanted to be in a position to influence policy on issues that are important to Oregonians and the people of this country. I value the extraordinary opportunity that I have been given by my constituents to serve and to use the power that they have given me on behalf of them and the American people. But it is time to say that power must be accompanied by responsibility. That responsibility is to be straight with the American people, to tell them about the actions and the policies that they are taking. It certainly is not in line with the spirit of openness and accountability for the American people to allow one Senator in secret to unilaterally block from this floor even the consideration of a bill or nomination.

I am one who simply feels that public business ought to be done in public. Some might think that is a little bit quaint at this time in American history. But I think it is time to bring some sunshine to the process for debating these issues. I am very proud and very grateful that Senator GRASSLEY has joined me in this effort. I think it is very unfortunate that there appears now to be an effort behind closed doors to kill our proposal to end Senate secrecy. That will be unfortunate if it takes place. If it takes place, I want every Member of the U.S. Senate to know that Senator GRASSLEY and I will be back on this floor pressing the case again.

It's not going to threaten the deliberative approach that this body rightly takes to consideration of issues, to have openness and accountability in the way that the Senate does business. Senator GRASSLEY and I aren't saying get rid of the hold; we are not saying the hold ought to be abolished and a power that a Senator now has be diminished. We are simply saying that power should be accompanied by responsibility. Rights should be accompanied by responsibility.

Now, I was very gratified when the proposal Senator GRASSLEY and I offered in the U.S. Senate was approved by this body. I have been appreciative of the fact that the Senate majority leader, TRENT LOTT, has been willing to work with me on this matter and has indicated that he certainly doesn't want to see Senate secrecy and see important decisions made without accountability. And I felt that the Senate was moving in the right direction when, initially, our proposal was voted on, and favorably so, by the U.S. Senate.

But I am concerned that the bill that will come before the Senate, the D.C. appropriations bill, will not contain the legislation that Senator GRASSLEY and I offered to end Senate secrecy. I am concerned that our proposal may just disappear behind closed doors, without any public debate, without any explanation at all, and that our proposal may be put aside with the very secrecy that we sought to end.

So I tell my colleagues, Mr. President, that this fight is not going to end today. The D.C. appropriations bill is an important part of the Senate's work and it needs to be completed. But this Senator wants to be clear that we will be back, and we will be back, in my view, with even more support from the American people, given the fact that, in recent weeks, there were more than 40 holds—40 holds—on nominees and individual pieces of legislation, and even the Senate minority leader could not tell the American people who was exercising those holds.

Mr. President, it's time for additional openness and accountability in the U.S. Senate. In my view, continuing these secret practices cheapens the currency of democracy. The Senate can maintain its proud traditions with having openness and accountability, and each Member of the U.S. Senate will still be able to fight for their constituents and do the work they were sent here to do.

So I am still hopeful that the D.C. appropriations bill, when it comes back, will contain the legislation that Senator GRASSLEY and I authored to end the secrecy in the way business is done in the Senate. But if it's not, if our provision is not, I want to assure the Members of the U.S. Senate that we will be back, we will be back on a bipartisan basis. I don't believe it's possible for any Senator, at a town hall meeting in their home State, to justify these secret holds. I don't think it passes the smell test. I think it's wrong. If we don't prevail on it today, Mr. President, we will be back.

I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois [Ms. MOSELEY-BRAUN] is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent to proceed as in morning business for 10 minutes.

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

FAST-TRACK LEGISLATION

Ms. MOSELEY-BRAUN. Mr. President, today's economic reality is that trade is global. Whether we enter into new international trade agreements or not, we cannot turn back the clock on the pace of globalization of our economy.

Nor should we want to. In open and free trade lies the potential of increased trade, and with increased trade and constructive interaction among the peoples of the world, the prospect of job creation, and an improved standard of living worldwide is created.

Americans, who have enjoyed the highest standard of living in the world, need not fear our ability to compete and win in this new global economy. To the contrary, we have every interest in preparing ourselves to meet and master the challenges of this new era.

Economic growth through trade can produce better jobs, increased prosperity, and a continuation of the high standard of living and opportunity that define the American dream. In the last 4 years, exports have accounted for one out of every three jobs created in the U.S. economy. Moreover, the strength of our economy is reflected in the fact that the United States is the No. 1 exporting nation in the world.

Our trade competitors, in recognition of the trends already evident in this new global economy, have formed regional trading alliances and relations to meet U.S. competition in world markets. Europe is beginning to trade as a European Community; an agreement among the Association of Southeast Asian Nations, known as ASEAN, augments Asian competition; and the United States entered into the NAFTA, in order to begin the formation of a regional trading arrangement in our hemisphere.

I believe that trade liberalization can have positive effects for our American economy. I do not believe, however, that it is advisable at this time to resort to the fast-track procedure to get there.

At the outset, I want to remind my colleagues and the public at large that what is at issue with this debate is not whether we will embrace trade liberalization, but how we will do so, and under what conditions. For constitutional, policy, and practical reasons I cannot support S. 1269, given the current lack of consensus in this Congress on trade policy objectives. I believe that this legislative proposal, as currently constituted, leaves too many questions unanswered regarding the balance that needs to be struck in the interest of American business and the American people.

Section 8 of article 1 of the Constitution gives to Congress the commercial power: "Congress shall have the power to . . . regulate commerce with foreign nations, and among the several states, . . . and to lay and collect duties, imports and excises" The Framers of the Constitution very clearly made it our responsibility to make commercial agreements, to set tariff levels, and to pass the laws necessary to implement legislation for trade agreements that are not self-executing. This power was put into the hands of the Congress, after no small amount of debate, as a check and balance on the President's authority to make treaties and to conduct foreign policy.

The concept of checks and balances lies at the heart of our constitutional system of government. The separation of powers, and the checks and balances it provides, was, and is, a defense

against the tyranny that concentration of power invites. In fact, some of the Framers of the Constitution argued that the powers vested in one branch of the Government could only be exercised by that branch. In 1789, James Madison proposed an amendment to our Constitution which explicitly stated as much: "the legislative, executive and judiciary powers vested by the Constitution in the respective branches of the government of the United States shall be exercised according to the distribution therein made, so that neither of said branches shall assume or exercise any of the powers peculiar to either of the other branches." (The House adopted Madison's proposed amendment, while the Senate, for reasons lost to history, rejected it.)

While it is still a matter of scholarly debate to what extent the separation of powers exists as a doctrine or as a concept within our Constitution, the fact that we are engaging in this debate at all is witness to the fact that this bill calls upon the legislature to transfer a good part of its constitutional authority, in regards to commercial treaties, to the Executive.

That is not to suggest that the fast-track authority has been a failure, or that the Executive should never be entrusted to assume such authority as the Constitution makes our responsibility. An early Secretary of the Treasury, Albert Gallatin, speaking to those instances in which "shared" authority might be appropriate, noted that, "it is evident that where the Constitution has lodged the power, there exists the right of acting, and the right of direction". . . . but he went on to address the accommodation that might be appropriate between the branches of government in this regard: "the opinion of the executive, and where he has a partial power, the application of that power to a certain object will ever operate as a powerful motive upon our deliberations. I wish it to have its full weight, but I feel averse to a doctrine which would place us under the sole control of a single force impelling us in a certain direction, to the exclusion of all the other motives of action which should also influence us." (Gallatin, 7 Annals of Congress 1121–22 (1798))

The bill before us would effectively preclude the Congress from informing the Executive of "all the other motivations of action," and even limits the time for debate. No amendments to trade agreements negotiated under the fast-track authority are permitted, and only 20 hours of debate are allowed. Given the momentous changes which are taking place in this new and global economy, this restriction on congressional input seems to me unwise and unnecessary, and should not be allowed to become routine practice.

Part of the lingering bitterness over the NAFTA, I suspect, arises from the fact that it was presented to the Congress under the same kind of fast-track procedures as are at issue now. Now, it is true that the claims on both sides of that debate, of a great "sucking sound" on the one hand, or of unprecedented job creation, on the other, did not materialize. What we have seen, in fact, is a mix of results, some better than predicted, some very much worse, but none fully realized, or more importantly, shared with the American people.

My home State of Illinois, for example, is a great exporting State, the fifth largest in our country; 425,000 Illinois jobs are directly related to exports, and Illinois manufacturing exports have grown by 53 percent since 1993. Illinois' agricultural sector has also benefited from increased exports of corn and soybeans.

On the other hand, the losses of manufacturing jobs have been significant enough to give more credence than I would have liked to the dire predictions of the debate over NAFTA. Other States have had different experiences, and one need only reflect on the impact on wheat imports, for example, to conclude that we have yet to reach closure on the long term effects that increased liberalization will create.

And yet, despite that history and despite the absence of a clear trade policy architecture that can command broad support both in Congress and across our Nation generally, S. 1269 would again mute the voice of the Congress concerning the architecture and objectives of our trade policy. Without the ability to amend such agreements as may be reached in the future, or to even enjoy normal parliamentary rights, we are left to that "sole control of a single force impelling us in a certain direction," which Mr. Gallatin feared.

We need a trade policy framework that will represent the interests of all of the American people, and that will best advantage our business sector in its global competitive challenge. Unfortunately, despite the best efforts of our President and his first rate economic and trade team, we do not yet have such a framework.

I am particularly concerned about the issue of child labor. American business cannot compete fairly with nations that allow labor costs to be artificially depressed by the exploitation of children. In 1994, the U.S. Department of Labor issued a startling report entitled "By the Sweat and Toil of Children—the Use of Child Labor in U.S. Manufactured and Mined Imports." That report found that in textiles manufacturing, food processing, furniture making, and a host of other export-directed activities, children are employed for long hours in abysmal conditions, and are paid very low wages. They have few, if any legal rights, can be fired without recourse, and are often abused. They are hired by our foreign competitors to minimize labor costs. The International Labor Organization reports that 25 million children, world wide, are so engaged.

In the Philippines, for example, the Labor Department Report stated that in the wood and rattan furniture industry, children working in factories received 15 to 25 pesos per day—approximately 61 cents to $1. About 29 percent of the children were unpaid or compensated with free food; the rest were paid on a piece rate basis. About 48 percent of the children work between 15 to 25 hours a week, while another 13 percent work more than 50 hours for less than minimum wage.

The report stated that children who work in the garment industry in Thailand work 12-hour days in shops where they earn as little as five cents for sewing 100 buttons. Furthermore, they reported that in Cairo in Egypt's small family-operated textile factories, 25 percent of the workers were under the age of 15. Seventy-three percent of the children worked in excess of 12 hours per day and earned an average of $8 per month.

These are just a few examples of countries that employ children. Clearly, it is in the interest of every modern business and every industrialized nation to develop new international standards to help end child labor. Lower wages and extremely poor working conditions can lower manufacturers' costs in the short term, but they create long-term economic and geopolitical problems, not just for the country that exploits its children, but for the United States, as well.

When foreign industries artificially depress their labor costs by exploiting children, how can a U.S. worker compete? We must level the playing field for American workers. And more importantly, we must put our Nation on record that child labor must end. The United States must realize that it is an enlightened business policy to eliminate abusive child labor. Free-trade agreements should contain clear provisions against the use of abusive child labor.

Child labor should be designated an unfair trade practice, but S. 1269 does not make it so. Without such minimal ground rules with respect to child labor, our trade policy will be at cross purposes with our trade and larger foreign policy and national security objectives. We will have created a two-tier system in which U.S. companies will be prohibited from exploiting children here at home, while foreign firms, and U.S. companies, which leave to take advantage of the lower labor costs on foreign soil, will be permitted to exploit children so they can gain competitive advantage over those who play by our domestic rules. Such a system does nothing to benefit American business, creates incentives for the loss of U.S. jobs, and leaves us all with the shame of complicity in child abuse.

Finally, it is important to note that the Executive has the ability and the authority to negotiate trade agreements even in the absence of the fast-track procedure. It is my understanding that some 200 trade agreements have been concluded without it. Fast-track has only been used five times since 1974, for the GATT Tokyo round in 1979, the United States-Israel Free-Trade Area Agreement in 1985, the United States-Canada Free-Trade Agreement in 1988, NAFTA in 1992, and the Uruguay round of the GATT in 1994.

Instead of closing off debate about the proper purposes and architecture of free trade, we ought to encourage open and full debate with the American people about it. Trade is inevitably a more and more important aspect of our economic landscape, and indeed, as American business achieves the kind of market access in the world community that its capacity will allow, more and more U.S. workers will see the benefits of liberalization. Even today, those businesses which have benefited from the increased access accorded by NAFTA and GATT are enthusiastic about the prospects for real economic growth from this sector. We should be optimistic about our prospects overall, because American goods and services are seen by the rest of the world as providing the excellence they want. But we will see only fractiousness and retreat, if we fail to achieve consensus about the rules of our foray into this global economic competition.

I have a sense that trade, and its impacts, not only on our economy, but on our foreign policy as well, will come more and more to dominate the debate in our country about our future course and direction. If we are to be mindful of the ancient warning that "all wars start with trade" then we should redouble our resolve to make certain that our policy is based on consensus among our people regarding its direction, its objectives, its ground rules. We do not have such consensus yet. We should not shut off the debate which is the only way to get that consensus.

PUBLIC UTILITY HOLDING COMPANY ACT REPEAL

Mr. LOTT. Mr. President, I would like to state my strong support for S. 621, and express my disappointment that a few Senators have prevented this body from considering the bill this year. A bipartisan majority of Senators supports PUHCA repeal, and I will bring it to the floor for consideration and passage early next year.

Both Chairmen D'AMATO and MURKOWSKI, along with Senators DODD and SARBANES, deserve great credit for helping to move this legislation forward. It is unfortunate that their efforts on both sides of the aisle were unsuccessful this session. They know—as do the other 20 cosponsors of S. 621—that repealing PUHCA would remove an outdated regulatory burden that restricts the operations of a handful of electric and gas utilities.

Mr. President, PUHCA was enacted in 1935 to eliminate holding company abuses of that time, and it was quite successful. In the last six decades, however, Congress and the States have enacted a whole spectrum of securities, antitrust and utility regulatory statutes that make it impossible for those abuses to occur again. Even the Securities and Exchange Commission, the agency tasked to enforce PUHCA, has said that PUHCA is no longer needed and should be repealed.

Now, long past its usefulness, PUHCA stands in the way of competition. While some argue that PUHCA should only be repealed as a part of comprehensive restructuring legislation, I believe that incremental steps toward competition are responsible and realistic accomplishments for the 105th Congress. Repealing PUHCA should be the first incremental step.

Mr. President, crafting comprehensive restructuring legislation requires Congress to consider a whole host of difficult issues—stranded cost recovery, State versus Federal authority, renewable resources, public power subsidies, environmental impacts. The list goes on and on. There is no consensus among Senators on these issues, but there is an overwhelming amount of support for PUHCA repeal.

Instead of searching for the perfect total package, let's focus on the incremental steps toward competition that we can agree on. PUHCA is the biggest single Federal obstacle to the advancement of retail competition, and it should be repealed now. Several States have already adopted or are in the process of adopting retail competition plans without comprehensive utility restructuring legislation. We can't allow the Federal Government to block progress in the States. Without PUHCA repeal, retail competition in the States simply cannot flourish.

Mr. President, now is the time for PUHCA repeal. Although the few opponents of S. 621 have prevented the Senate from considering the bill this year, I will bring it to the floor early next year. I hope that my colleagues on both sides of the aisle will join me in repealing this outdated and burdensome Federal obstacle to competition in the utility industry.

KEEP HIGH TECHNOLOGY FREE FROM WASHINGTON INTERFERENCE

Mr. ABRAHAM. Mr. President, I rise to urge my colleagues to join me in fighting to ensure that our high technology industries, and the Internet in particular, remain as free as possible from Government regulation and taxation.

America's high-technology, information age industries embody America's entrepreneurial spirit. In this sphere, initiative and inventiveness are joined as thousands of people work to create new ways of generating and transferring technology, information and commerce. The high technology sector is crucial to our economy, crucial to our workers and crucial to our way of life. It must remain as free as possible so that it may continue to grow, employing ever more Americans in good jobs, generating commerce and employment throughout our Nation and constantly reviving our spirit of independence and innovation.

Mr. President, we first must keep in mind, in my view, that the hi-tech, information age industry is crucial to our economy. This industry is growing very quickly. A 1997 study by the Business Software Industry found that the American software industry has grown two and a half times faster than the overall economy from 1990 to 1996, and that software industry employment will grow 5.8 percent per year between now and 2005. In 1982, according to the Federal Trade Commission [FTC], computer products were found on the desks of only 5 percent of American workers; only 4 percent of American households contained personal computers. By 1992 the figures surged to 45 percent and 31 percent, respectively. Currently, 40 percent of American homes contain PCs. Between 1972 and 1992, research intensive industries grew an average of twice the rate of overall GDP growth, with computers, semiconductors and software leading the group.

Hi-tech industries are serving as engines of economic expansion, creating many spin-off jobs. Economist Larry Kudlow reports that the hardware and software industries combined account for about one third of real economic growth. Overall, electronic commerce is expected to grow to $80 billion by the year 2000. The FTC reports that, from 1985 to 1995, the worldwide number of hardware vendors increased from 120 to 350, and the number of service providers—programmers, consultants, maintenance and systems operators—increased from 1,715 to 30,000. Not only hi-tech, but supporting hi-tech has become booming business.

To judge the dynamism of this sector of our economy, and of the Internet in particular, we should consider the fact that the Internet grew from four linked sites in 1969 to become the first ubiquitous, interactive advanced communications network. 15 million households are now connected to the Internet, with 43 million expected by the year 2000.

Mr. President, we all have benefited from this tremendous growth, and we will continue to benefit from the hi-tech industry, so long as we continue to allow it to expand and innovate. Affordable world-wide communications

and information transfer have changed our world for the better. Consumers now have far more choices, and benefit from greater competition among sellers. Workers have seen their opportunities increase as well in our expanding economy. Perhaps most benefited has been American small business. During a time in which it is increasingly difficult to deal with Government bureaucracies, regulations and so forth, in one sector of our economy an individual can still work nights and weekends in his garage and end up running his own company. This sector offers minimal barriers to entry and a convenient, cost-effective distribution. That sector is, of course, that of high technology.

Increased opportunity—to shop, to work, to start one's own business—has been supplemented by an overall increase in freedom thanks to the open availability of information on the Internet and the freeing up of new opportunities, for example through telecommuting, to enrich our lives without sacrificing our careers.

All of this is possible, Mr. President, because we have a vital, growing and free hi-tech industry in America. And our hi-tech industry has succeeded because in it Americans are able to respond quickly and efficiently to technical and marketing challenges, unencumbered by any preconceptions imposed by regulation relating to its development or from inappropriate Government charges on its business.

We are a freer, more prosperous and more open country because of our free high technology industry. To the greatest extent possible, we should keep that industry free from Washington rules, regulations and taxes for the sake of our consumers, our small businesses and our workers.

Mr. President, a number of issues have found their way before Congress that might severely affect our high technology sector. For example, Local Exchange Carriers [LECs] have contended that increasing Internet traffic could soon exceed the current phone system's capacity. To fund new infrastructure, the LECs have argued that a user fee should be paid by companies that provide Internet access. But this user fee could make consumers reluctant to use the Internet, particularly if it is not used to fund product improvements. What is more, access charges would only suppress Internet development, leaving us all with inadequate infrastructure.

In response to this situation I joined with Senator LEAHY to propose Senate Resolution 86, a nonbinding sense of the Senate resolution urging cooperation between Internet providers and the local phone companies. That resolution also calls for a rejection of access fees as a means of solving the dispute.

Encryption also has been the subject of significant debate. More and more, Mr. President, businesses are encrypting electronic mail messages sent interoffice and intraoffice. These businesses seek to protect themselves against industrial espionage or recreational hackers. In addition, on-line commercial transactions, such as wiring money or purchasing and selling products, require encryption to ensure security.

Currently, there are no limits on the strength of encryption products for domestic purposes. The same is true for importation. However, exportation of encryption is tightly controlled.

Many in the law enforcement community are concerned about the proliferation of strong encryption products, particularly should they fall into the hands of criminals. But this technology already exists, Mr. President. We will not make ourselves safer by exposing businesses to industrial espionage, sabotage and the loss of commerce. That is why I supported Senator BURNS' bill to maintain business' right to develop and use strong encryption.

As important as restrictions on development, Mr. President, have been proposals to tax commerce on the Internet. Over the last 2 years, several States and localities have passed or interpreted laws to permit taxation of Internet sales and use.

The result, Mr. President, would be double taxation of Internet commerce and a stifling of Internet use. S. 442, recently voted out of the Commerce Committee, will stop this trend by imposing a 6-year moratorium on subnational taxes on communications or transactions that occur through the Internet or online service, and access or use of the Internet or online services.

This moratorium would apply to all Internet and interactive computer services, but not to property, income or business license taxes. In essence, it prohibits sales and use taxes unless the retailer has a physical presence in the taxing State. It would keep Government from piling on taxes that will strangle the infant Internet commerce industry in its cradle. It also will allow the States to come up with a rational system by which to tax Internet commerce.

Another area in which governmental action has threatened our hi-tech, information age industry has been immigration. I am proud that we pushed back efforts during the last Congress to radically reduce the numbers of immigrants coming legally into this country. I firmly believe that immigration is the American way, and because I know that legal immigration is crucial to our hi-tech industry.

For example, 40 percent of Cypress Semiconductor's top-level management is foreign-born. Chief Financial Officer Manny Hernandez is from the Philippines, vice president of research and development Tony Alvarez is from Cuba. And this immigrant-driven company employs 1,800 people in the United States.

Immigrants give America an entrepreneurial edge. In 1995 12 percent of the "Inc." 500—a compilation of the fastest growing corporations in America—were started by immigrants. They also give us an edge in innovation. Immigrants make up nearly a third of all Ph.D.'s involved with research and development in science and engineering—the basis for innovation and economic growth.

Immigrants also fill needed roles, particularly in the engineering field. The CATO Institute reports that over 40 percent of our engineering Ph.D.'s are foreign-born, yet the unemployment rate in that field is only 1.7 percent. Clearly there is a gap in engineering in America that is being filled by immigrants.

I am pleased, then, Mr. President, that we did not close the door on immigrants seeking to come to this country to make a contribution and seek a better life. And I hope we will continue to keep the door open, so that we may live up to our heritage as a nation of immigrants, and so that we may continue to prosper.

Finally, Mr. President, abusive class action lawsuits have caused significant harm to high technology companies, as they have to much of the American economy. Some suits, alleging malfeasance on the part of company directors, have been brought within hours after a drop in a company's stock price.

Not long ago, this body successfully overrode the President's veto of legislation to reform securities litigation in this country. That bill will provide that discovery be stayed whenever a motion to dismiss is pending in a securities action. Discovery costs have been estimated to account for 80 percent of the costs of defending a lawsuit in this kind of action, and that is too much, particularly when the suit may be dismissed as without merit.

The bill also would create a modified system of proportionate liability, such that each codefendant in a securities action is generally responsible for only the share of damages that defendant caused. This should prevent companies from being joined to a lawsuit solely because of their deep pockets.

In addition, under this legislation, plaintiffs now must state facts with particularly, and state facts that give rise to a strong inference of intent on the part of the defendant. This should end the too-common practice of filing cases on the basis of few or no hard, relevant facts.

Finally, the bill contains a safe harbor provision protecting forward-looking predictive statements from liability.

Mr. President, we must go further, particularly in the area of legal reform, to protect our hi-tech industry

from unwarranted interference. S. 1260, which I have cosponsored, would limit the conduct of securities class actions under State law. But even this is not enough.

Hi-tech and other companies are hit with all sorts of abusive lawsuits, not just securities litigation. That is why I am working for broader litigation reforms. I offered an amendment last Congress that would have expanded the joint and several liability provision of the product liability bill to cover all civil lawsuits. I also have introduced my own bill to protect small businesses from frivolous lawsuits. And I am working with Senator MCCONNELL to provide needed reforms to our civil justice system. It is my belief that we can make substantial progress in this area in the near future.

Finally, Mr. President, I would just like to note that, while antitrust laws must apply to new industries as they have to the old, we should not allow antitrust laws to become an excuse for excessive regulation. Hi-tech is a dynamic sphere of economic activity. Over-zealous Government regulation from Washington, by whatever means, will only hurt consumers, producers and workers. I think most hi-tech CEOs would agree that producers and consumers in the free market economy—not bureaucrats and politicians in Washington—should determine winners and losers in the high tech industry.

Frivolous lawsuits, unnecessary regulation and onerous taxation. Mr. President, all these actions threaten our high technology, information age industry. It is my hope that we can work together to lessen the chance that they will be imposed on an industry that is central to our economic well-being.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona [Mr. KYL] is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. KYL. Mr. President, I realize that the debate on the Labor-HHS conference report is supposed to begin at 1 o'clock.

I ask unanimous consent that Senator FAIRCLOTH and I each have 10 minutes as in morning business, subject to only Senator SPECTER changing that if he needs to during the course of our presentations. And, Mr. President, in addition, I ask that the Senator from Minnesota, Mr. GRAMS, have 5 minutes following Senator FAIRCLOTH.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MEDICARE BENEFICIARY FREEDOM TO CONTRACT ACT

Mr. KYL. Mr. President, I wanted to give a report to my colleagues on the status of the Medicare Beneficiary Freedom To Contract Act, the so-called Medicare private contracting issue, which has been before both the Senate and House for several weeks now following the adoption of the Balanced Budget Act, which contained in it a provision which makes it much more difficult for physicians to serve patients who want to contract outside of Medicare.

Let me briefly tell you what the problem is, the legislative status, and the resolution—at least as of now—that we have been able to accomplish.

The issue is whether or not physicians can serve both Medicare patients and people under private contracts who are 65 years of age. Once a person turns 65, of course, they are eligible for Medicare, and most of the services they can obtain are paid for by Medicare. But occasionally, either there is a service that is not covered by Medicare, or even sometimes services that are covered by Medicare that a patient would prefer to obtain from a physician outside of the Medicare Program.

For example, a constituent of mine had a condition that required the aid of a specialist in her small community. There were none available, except one person who was no longer taking Medicare patients. By the way, Mr. President, this is a common situation, because Medicare, especially for specialists, does not reimburse even up to their level of costs. So while many physicians don't want to dump their existing Medicare patient load and they want to continue to serve those patients they have been serving for a long time, they are not anxious to take on new Medicare patients. In this case, she went to the physician. He said he would be happy to take care of her, but he wasn't taking anymore Medicare patients. Her response was, "Well, I will just pay you directly. You bill me, and I will pay you. That way Medicare will save some money, and I will get the treatment I need, and you won't have to take new Medicare patients." He found that the Federal Government would have deemed that to be a violation of law and, therefore, he would have been precluded from providing the services.

It was in response to that kind of a problem that we created a piece of legislation that would allow patients who are 65 years of age to have the right to go to the physician of their choice and to be treated outside of the Medicare Program, if that is their choice. We passed that legislation here in the Senate. It became part of the Balanced Budget Act. And, before the act was finalized, the President indicated his desire to veto that legislation if that provision were retained. As a result, some changes were made, the most important of which was to add a provision to the act which makes it virtually impossible for patients to actually have the benefit of that freedom of choice. The provision was that a physician providing such services had to opt out of all Medicare treatment 2 years in advance.

In other words, patients still had the right to go to a physician. But any physician that provided those services could not provide any Medicare services for a period of 2 years. That meant that it was virtually impossible then for physicians to serve these particular patients.

In an effort to try to resolve that, we introduced the Medicare Beneficiary Freedom of Contract Act. It has almost 50 cosponsors in the Senate, well over 100 cosponsors in the House version sponsored by the chairman of the House Ways and Means Committee, BILL ARCHER. We hoped that we would have the opportunity to get that passed before the end of this legislative session this year. It was not to be. People in the House of Representatives did not feel that they wanted to go forward with it under the constraints of time. There were some other issues. As a result, we did not push it as an amendment to one of the appropriations bills or other vehicles by which we could have done that here in the Senate.

Instead, I sought to proceed in a way that would enable us to ensure that we would make progress early next year on getting this issue resolved. Yesterday, I met with the President's nominee to head HCFA, Nancy-Ann Minn Deparle. She gave me a series of assurances of ways that they want to continue to work on this problem. I also received a phone call from Secretary Shalala providing the same assurances that we will be able to sit down and work with the administration to try to resolve this issue so that early next year we will be able to pass legislation that will solve this problem of Medicare-private contracting.

In addition to that, I received some assurances from Nancy-Ann Minn Deparle that the law that goes into effect on January 1 would not affect the provision of services not covered by Medicare. It would not affect the provision of service only partially covered by Medicare—on Medicare, for example, a second mammography beyond the annual mammography covered by Medicare. It would not affect the provision of care under the Medicare Plus Choice Plan, the Medical Savings Account option, and it would not affect the ability of other physicians in a group practice to treat Medicare beneficiaries when a patient makes a private contract with one of the group practitioners.

We worked on some of the other problems relating to this in addition to try to develop legislation next year that will be approved by the House and Senate and the administration. I will report more on the progress of this after a while.

I would like to introduce into the RECORD two items that came to my attention this morning. One, a copy of three letters that were published.

Mr. SPECTER. Mr. President, if my colleague will yield, I inquire: How much time does the Senator intend to use?

Mr. KYL. I am finishing right now.

I ask unanimous consent to have printed in the RECORD the text of three letters carried in the New York Times on Friday, November 7, and a copy of an editorial in the San Francisco Chronicle, and the date is November 6, 1997.

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

[From the New York Times, Nov. 7, 1997]

HEALTH CARE IS TOO IMPORTANT FOR PARTISANSHIP

To the Editor:

"Move Under Way to Try to Block Health Care Bills" (front page, Nov. 4) points up that health care reform is again being treated as a partisan issue rather than the bipartisan issue it should be. The health care system is in critical condition.

Costs are rising at twice the rate of inflation and will double in the next 10 years. The number of uninsured—estimated to be between 41 million and 44 million—is increasing by a million a year, and the quality of care continues to erode.

Competition and managed care have been promoted as solutions, yet the marketplace has done little to stem long-term cost, quality and coverage problems, which show no sign of abating.

Opponents of reform being considered in Congress contend that the proposals would increase costs even more and drive more people out of health coverage.

Yet without change in the way we deliver and pay for health care, costs will rise more rapidly and the number of uninsured will grow larger.

Partisan posturing only aggravates the problems for all Americans.

HENRY E. SIMMONS, M.D.,
Pres., Natl. Coalition on Health Care.

KYL PROPOSAL ISN'T NEW

To the Editor:

"Republican Health-Care Mistakes" (editorial, Nov. 5) overlooks that the wording of the bill sponsored by Senator Jon Kyl, which would allow Medicare patients to pay doctors more than Government-set rates, would only preserve and codify the status quo.

The Medicare law and its amendments never forbade contracting between physicians and beneficiaries outside of Medicare. It was the heavy hand of the Health Care Financing Administration that articulated the draconian regulations forbidding outside contracting. A 1992 court decision (Stewart v. Sullivan) was moot on the subject of outside contracting, effectively allowing it.

Consequently, we have already had Medicare outside contracting without all of the hazards you predict: illegal double billing of both the patient and Medicare, a two-tier system of care and unequal bargaining between physician and patient. You propose to fix the functional status quo with one that decrees loss of individual freedom of choice at a moment when life and death decisions may be crucial.

ROBERT L. SOLEY, M.D.

COMPETENT AT 65

To the Editor:

Re "Republican Health-Care Mistakes" (editorial, Nov. 5): You miss the point of the Kyl amendment. There are 65-year-olds more than able to negotiate on their own behalf and who feel demeaned when the Government robs them of the right. Why deny them the same rights that they had the year before they turned 65?

The low regard for the integrity of physicians your editorial expresses is offensive. In spite of all the chaos in the health care sector, the primary reward of the physicians I speak with comes from helping patients.

Do you really think the typical physician is bent on defrauding people?

HERBERT S. GROSS, M.D.,
Clinical Professor of Psychiatry,
University of Maryland.

[From the San Francisco Chronicle, Nov. 6, 1997]

FREEDOM OF CHOICE ON MEDICAL CARE

The Balanced Budget Act of 1997 was supposed to give elderly patients greater freedom of choice on medical care. But it stopped short of offering genuine choice. Here's the situation.

Under current rules, doctors are prohibited—criminally prohibited—from charging Medicare patients more than the amounts permitted by the government, even if the patients are willing to pay the money out of their own pocket. These restrictions have kept Medicare patients from being able to use their own money to see doctors—even specialists—as they choose.

This restriction is all the more onerous for patients because so many doctors have become disenchanted with Medicare, which reimburses at about 70 percent of the rate of private insurers. As a result, some senior citizens have trouble finding a doctor willing to take them.

Recognizing the problems with the restrictions, Congress recently voted to allow Medicare beneficiaries the option to privately contract with doctors for any service at any price—with one caveat.

And that caveat, insisted upon by the Clinton administration, is a whopper that effectively undermines the patient's freedom of choice. The Clinton-pushed amendment to the bill provides that any physician who enters into such a private contract cannot receive any Medicare reimbursement for two years. Those new rules go into effect January 1.

Senator Jon Kyl, R–Ariz., has introduced legislation (S. 1194) that would get rid of the two-year restriction on doctors who enter into the private contracts. His plan to open up choices for Medicare patients has encountered intense opposition from powerful groups, notably the American Association of Retired Persons.

Defenders of the status quo argue that Medicare patients have no shortage of choices. "The idea that doctors don't take Medicare patients is fallacious," said Representative Pete Stark, D–Hayward, a longtime advocate of universal health care. Stark maintains that a private-payment option would create a two-tiered system—"boutique health care" for the wealthy, while Medicare would be left to tend to the poorest and the sickest.

There is a little problem with the all-is-well premise of those who oppose the Kyl bill. If Medicare really did offer satisfactory choice and service for beneficiaries, then none of them would want or need to dig any deeper into their pockets for medical care.

This issue also involves a matter of privacy—which is why the American Psychiatric Association strongly supports the Kyl bill. Medicare covers 50 percent of the cost of psychotherapy, but some patients would rather pay the full freight in order to avoid the government's ability to review their claims, said the APA's Jay Butler.

Medicare patients deserve a chance to decide for themselves what kind of care they want, and whether they are willing to pay for it.

Mr. KYL. With that, Mr. President, I will complete this at another time since I know Senator SPECTER wants to move forward.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from Arizona. I had sought a time determination because we have 90 minutes on the bill and are scheduled to vote at 2:30. The way our colleagues work, people will be ready to depart for trains and planes at 2:29.

So if the clerk will report now, I know that there are other Senators who wish to speak and there will be time to speak during the 90-minute time. Then by unanimous consent we can go into morning business. But I request that we proceed at this time to the consideration of the conference report on Labor-HHS and Education.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the clerk will report the conference report to accompany H.R. 2264.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2264), have agreed to recommend and do recommend to their respective Houses this report, signed by majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 7, 1997.)

Mr. SPECTER. Mr. President, parliamentary inquiry. I ask for confirmation from the Chair that we are now on the conference report having begun at 1:05 with the 90-minute time limit so that we will vote no later than 2:35.

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. I thank the Chair.

Mr. President, it is with great pleasure for me personally that I address the Senate on the conference report on the appropriations bill for the Departments of Labor, Health and Human Services, and Education.

It has been a long, tortuous road to come to this position where if the Senate acts favorably on this conference

report, it may then be presented to the President with the expectation that it will be signed into law.

There are 13 appropriations bills which run the U.S. Government, and the appropriations bill on these three departments is the largest one in the Federal Government, downsizing of some $277 billion, and it is now larger even than the appropriations bill for the Department of Defense.

This bill has had a very, very difficult process in coming through conference with a tremendous number of obstacles and difficulties confronting the legislative process at every step of the way.

The process that this conference report has come to the floor with would perhaps constitute a textbook on legislative process except that it has been so extraordinary. That has been occasioned by the fact that there are so many so-called riders or legislative provisions on the appropriations bill which have enormously complicated the work of the conferees in trying to work out an enormous number of complicated problems.

The most vexing of all of the issues—and it had a lot of competition—was the issue on so-called testing. There has been a generalized agreement that it would be desirable to test fourth graders on reading and eighth graders on mathematics but a great deal of disagreement as to how that testing ought to be carried out. There has been widespread sentiment expressed that the Federal Government ought not to be intrusive in the educational process. Then the problem arises as to just how this test would be worked out.

When the bill came to the floor of the Senate, the excellent work was done by Senator COATS of Indiana, Senator GREGG of New Hampshire, with the assistance of former Secretary of Education Bill Bennett. In the hands of those three individuals, with the established record in the education field, great knowledge on testing, and all being very zealous to keep out Federal intrusion but to limit any testing approach to absolute necessity and to State control, it was the expectation of this body that when Senator COATS, Senator GREGG, and former Secretary Bennett agreed on a process, that it would satisfy even those most diligent in objecting to Federal testing. The Senate passed that amendment by a vote of 87 to 13, which is a very, very strong show of support in this body.

The House of Representatives enacted a provision that there should be no funds on testing. When we came to the issue of conference a week ago Wednesday, a meeting occurred attended by the top leadership of the Republican Party of the House and the Senate, attended by the Speaker; by the House majority leader; by the No. 3 in rank in the House of Representatives, Mr. DELAY; the chairman of the House Appropriations Committee, Mr. LIVINGSTON; and the chairman of the House Appropriations Subcommittee, my counterpart, Congressman JOHN PORTER. And on the Senate side, we had our own majority leader. We had the chairman of the Appropriations Committee. And I was present.

We agreed on a number of items. One of the foremost of those items on which there was agreement was the issue of testing. There was one party present who disagreed. That was the chairman of the authorizing committee in the House, my colleague from Pennsylvania, Congressman GOODLING. But aside from Congressman GOODLING's dissent, there was agreement at that meeting.

A week ago Thursday the conferees met and hammered out quite a number of other complicated issues and came to agreement on a conference report. That night the agreement was repudiated, and we were back to square one with respect to the testing issue, which held up this bill until further negotiations were undertaken by the President and by Congressman GOODLING. The testing issue has finally been resolved. A key part of the agreement on testing is that the matter will be submitted to the House-Senate authorizers early next year.

This is one illustration as to what ought to be done by the authorizing committees so that the matters are not put on appropriations bills and bog down the appropriators.

There was plenty of time during 1997 to have this issue of testing taken up by the authorizers. It really is a matter for the authorizers to make the congressional determination about what testing ought to be instead of tacking it onto an appropriations bill where it really does not belong. It is grafted onto the appropriations bill with this language, "No funds shall be expended for testing." That is the way many, many substantive matters were grafted onto the appropriations bill. "No funds shall be expended for" purpose A, B, or C.

When it became apparent to me that this issue was going to be one in the appropriations process after this bill was on the floor for initial consideration by the Senate, I scheduled a hearing. At the hearing, we heard both sides of the issue. The Secretary of Education came forward to articulate the administration's position on why there should be testing. We invited Congressman GOODLING to present his views about why there should be no testing. After having had the benefit of that information, we then were in the position to proceed as best we could on that limited record to make the judgment on testing.

We had in the conference many other complex issues that we finally worked out. We had the amendment offered by the distinguished Senator from Washington, Senator MURRAY, on the issue of not restricting welfare benefits to women who had been victims of domestic violence. That is a substantive matter that would be better considered by the authorizers. But it passed in the U.S. Senate by a vote of 98 to 1. At least, in my judgment, and the judgment of 97 other Senators, it had a very important public policy purpose, to give special consideration on welfare benefits and other matters for women who had been victims of domestic violence. Senator MURRAY was gracious to not press her amendment in conference, on an arrangement where the House of Representatives authorizing subcommittee made a commitment to take up the issue early next year. I was delighted to join Senator MURRAY as a cosponsor on that matter.

That is one illustration of how we moved ahead to focus on money matters without that kind of a substantive provision.

PRIVILEGE OF THE FLOOR

Mr. President, at this time I ask unanimous consent that Mr. Jim Sourwine and Ellen Murray, detailees to the committee, be granted floor privileges during the consideration of the conference report accompanying H.R. 2264.

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

Mr. President, the conference agreement accompanying the Labor, Health and Human Services, and Education bill for fiscal year 1998 that is before the Senate today totals $80.4 billion in discretionary budget authority. Mandatory spending totals $196.4 billion, a decrease of $16 billion from the fiscal 1997 levels, for a net decrease in the bill of $10.3 billion.

The conference agreement both keeps faith with the budget agreement and addresses the health and education priorities of the Senate. The protected programs in the budget deal account for nearly half of the total increases in the bill, and $3.3 billion of the increase is for education.

I want to take this opportunity to thank the distinguished Senator from Iowa, Senator HARKIN, for his hard work and support in bringing this bill through the conference and to the floor. I also want to thank Congressman JOHN PORTER, the distinguished chair of the House Subcommittee, Congressman DAVID OBEY, ranking minority member, and Congressman BOB LIVINGSTON, chair of the House full committee for dedicating their time and energy in getting this bill to this stage. This has not been an easy process. We confronted many difficult decisions, choices, and tradeoffs, National testing was one of them, but finally through hard work, persistence, and a great deal of give and take, we were able to work out this agreement.

The programs funded within the subcommittee's jurisdiction provide resources to improve the public health,

strengthen medical research, assure a quality education for America's children, and offer opportunities for individuals seeking to improve job skills. I'd like to mention several important accomplishments of this bill.

MEDICAL RESEARCH

Few things are more important than a person's health and few things are feared more than cancer, heart disease, Alzheimer's or some other serious physical disorder. Medical research into understanding, preventing, and treating the disorders that afflict men and women in our society is the best means we have for protecting our health and combating disease. The conference agreement contains nearly $13.7 billion for the National Institutes of Health to support medical research that is being conducted at institutions throughout the country. This is an increase of $907 million above the fiscal year 1997 level and is consistent with the commitment I made earlier this year to increase funding for NIH by 7.1 percent and with the overwhelming endorsement of medical research by the Senate during consideration of the budget resolution. These funds will be critical in catalyzing scientific discoveries that will lead to new treatments and cures for a whole host of diseases.

FAMILY PLANNING

For the family planning program, the bill recommends $203.4 million to support primary health care services at more than 4,000 clinics nationwide. This amount represents an increase of $5 million over the 1997 appropriation. Over 85 percent of family planning clients are women at or below 150 percent of the poverty level and these additional funds will help to ensure that these low-income women have access to quality health services.

ADOLESCENT FAMILY LIFE

The bill recommends $19.2 million, an increase of $5 million more than appropriated in fiscal year 1997 for the only Federal program focused directly on the issue of adolescent sexuality, pregnancy, and parenting.

AIDS

This bill contains an estimated $3.380 billion for research, education, prevention, and services to confront the AIDS epidemic, including a $154 million increase for Ryan White CARE Act programs. The bill also provides $285.5 million for state AIDS drug assistance programs, an increase of $118.5 million over the President's request and the 1997 appropriation. Finally, within this amount, and estimated $1.596 billion is provided for AIDS research supported by the National Institutes of Health. The bill provides that these funds will continue to be distributed and coordinated by the director of the NIH Office of AIDS Research [OAR].

SUBSTANCE ABUSE

Substance abuse continues to plague our society with recent statistics showing many teenagers reporting regular use of marijuana and alcohol. The conference agreement includes over $2.395 billion to support the research, prevention, and treatment programs of the Departments of Health and Human Services and Education. This is an increase of $72.1 million over the 1997 appropriated levels for these programs.

JUVENILE CRIME INITIATIVES

The conference agreement includes $30 million for new programs to assist communities in preventing juvenile crime. Funds include: $12.5 million for youth offender demonstration training grants supported by the Department of Labor; $12 million for youth offender education grants supported by the Department of Education; and $6 million for at-risk youth substance abuse prevention grants supported by the Department of Health and Human Services.

HEAD START

To enable all children to develop and function at their highest potential, the agreement includes $4.355 billion for the Head Start Program, an increase of $374.4 million over last years appropriation. This increase will provide services to an additional 36,000 children bringing the total amount of kids served in fiscal year 1998 to 836,000. This brings us closer to the goal of enrolling 1 million children in Head Start by the year 2002. Within the total, $279 million is targeted for Early Head Start, which provides Head Start services to infants and toddlers ages 0 to 3. This is an increase of $70 million over 1997.

VIOLENCE AGAINST WOMEN

The bill includes $154 million to support the programs authorized by the Violence Against Women Act. This is an increase of $31 million for programs to provide assistance to women who have been victims of abuse and to initiate and expand prevention programs, to begin to reduce the number of women who are forced to confront the horrors of abuse. Included is: $86.8 million for battered women's shelters; $45 million for rape prevention; $15 million for runaway youth prevention; $6 million for domestic violence community demonstrations; and $1.2 million for the domestic violence hotline.

LIHEAP

The bill maintains the $1 billion appropriated in last year's bill for the upcoming winter's Low Income Home Energy Assistance Program [LIHEAP]. In addition, the recommendation provides an advance appropriation of $1.1 billion for the 1998–1999 LIHEAP winter program, an increase of $100 million over this year's level. The bill also provides additional emergency appropriations of $300 million. LIHEAP is a key program for low-income families in Pennsylvania and other cold weather States in the Northeast. Funding supports grants to States to deliver critical assistance to low-income households to help meet higher energy costs.

AGING PROGRAMS

For programs serving the elderly, the bill before the Senate recommends $1.988 billion, an increase of $65.5 million over the fiscal year 1997 appropriation. Included is: $440.2 million for the community service employment program which will provide more part-time employment opportunities for the low-income elderly; $9 million more for supportive services and senior centers; $17 million more for congregate and home-delivered nutrition services; and $18.4 million more for the national senior volunteer corps. Also the bill provides a 7.2 percent increase for research into the causes and cures of diseases such as Alzheimer's disease and other aging related disorders, funds to continue geriatric education centers, and the Medicare insurance counseling program.

SCHOOL TO WORK

The agreement includes $400 million for school to work programs within the Departments of Labor and Education. These important programs help improve the transition from school to work for those students who do not plan to attend 4-year institutions.

EDUCATION

To enhance this Nation's investment in education, the conference report before the Senate contains $29.74 billion in discretionary education funds, an increase of $3.25 billion over last year's funding level. Specifically, education reform programs have been funded at $1.275 billion, an increase of $279 million over the previous year's funding level, including $491 million for Goals 2000, $541 million for the technology literacy challenge fund and technology innovative challenge grants.

For programs to educate disadvantaged children, the bill recommends nearly $8 billion, $201 million more than the amount appropriated in fiscal year 1997. These funds will provide services to approximately 7 million schoolchildren. The bill also includes $124 million for the Even Start Program, an increase of $22 million over the 1997 appropriation. Even Start provides educational services to low-income children and their families.

For impact aid programs, the bill includes $808 million, an increase of $78 million over the 1997 appropriation. Included in the recommendation is: $50 million for payments for children with disabilities, an increase of $10 million over last year's funding level; $623.5 million for basic support payments, an increase of $8 million; and $24 million for payments for Federal property, an increase of $6.5 million.

Consistent with the budget agreement the bill provides $354 million to assist in the education of immigrant

and limited-English proficient students. This recommendation is an increase of $92.3 million over the 1997 appropriation and will provide instructional services to approximately 60,000 children. Within the funds provided, $25 million has been included for professional development to improve teacher training programs.

One of the largest increases recommended in this bill is the additional $746 million for special education programs to help local education agencies meet the requirement that all children with disabilities have access to a free, appropriate public education, and all infants and toddlers with disabilities have access to early intervention services. The $4.8 billion for special education programs will serve an estimated 4.95 million children at a cost of $662 per child.

To improve post-secondary education opportunities for low-income first-generation college students, the committee recommendation provides $530 million for the TRIO program, a $30 million increase over the 1997 appropriation. These additional funds will assist in more intensive outreach services for low income youth.

For student aid programs, the bill provides $8.97 billion, an increase of $1.418 million over the 1997 appropriation. Pell grants, the cornerstone of student financial aid, have been increased by $300 for a maximum grant of $3,000. The supplemental educational opportunity grants program has also been increased by $31 million, and the work study and Perkins loans programs have been maintained at their 1997 level.

In keeping with the budget agreement, the bill also provides $295 million for child literacy initiatives. The committee has provided $85 million of this amount to enhance literacy activities in existing programs in fiscal year 1998. The balance, $210 million, is available on an advanced funded basis. This will give the authorizing committee's adequate time to work out the specifics of this new program.

JOB TRAINING

In this Nation, Mr. President, we know all too well that unemployment wastes valuable human talent and potential, and ultimately weakens our economy. The bill before us today provides $5.23 billion for job training programs, $518 million over the 1997 level. Increases include: $92 million more for the Job Corps; $60 million more for adult training; and $64 million more for retraining dislocated workers. These funds will help improve job skills and readjustment services for disadvantaged youth and adults. The bill also reserves $250 million for opportunity areas for out of school youth grants if this new program proposed in the budget is authorized by July 1, 1998.

WORKPLACE SAFETY

The bill provides $1.070 billion for worker safety programs, an increase of $45 million above 1997. While progress has been made in this area, there are still far too many work-related injuries and illnesses. The funds provided will continue the programs that inspect business and industry, assist employers in weeding out occupational hazards and protect workers' pay and pensions.

CLOSING

There are many other notable accomplishments in this conference agreement, but for the sake of time, I mentioned just several of the key highlights, so that the Nation may grasp the scope and importance of this bill.

In closing, Mr. President, I again want to thank Senator HARKIN and his staff and the other Senators on the subcommittee for their cooperation in a very tough year.

In summary, Mr. President, this bill is one of enormous importance for America, for many reasons, and I shall detail only a few. My own personal opinion is that there is no priority higher in America today than health care and education. There are matters of tremendous concern—the crime problem, something that I spent a good part of my professional life on as a prosecuting attorney, the problem of environmental protection, the issue of economic development and our infrastructure of highways, grave difficulties of foreign policy around the world: In the Mideast, Bosnia, NATO, China, Africa and Latin America, and the fast track issue—but no issues rank higher than the health of Americans or the education of Americans.

The National Institutes of Health is the crown jewel of the Federal Government, with NIH having made miraculous advances in combating Alzheimer's disease, breast cancer, cervical cancer, prostate cancer, heart disease, mental illness, you name it, the men and women at NIH are on the firing line doing extraordinary work. We have been able to add to the NIH budget some $907 million this year, which is a 7.1 percent increase, bringing the total for the National Institutes of Health to $13.647 billion, almost $13.65 billion.

Senator HARKIN, my distinguished ranking member, and I have worked on a bipartisan basis in the subcommittee. My experience in Congress has demonstrated to me that the only way to get anything meaningful done in Washington is to work on a bipartisan basis. With the help of our staffs, Senator HARKIN and I on this subcommittee have consolidated or eliminated some 134 programs to save $1.5 billion, which we have allocated to the health issues and to education issues.

I had a talk with Dr. Varmus earlier this week on the occasion of the dedication of a building at NIH to our former colleague, the distinguished Senator from Oregon, Mr. Hatfield, who did such outstanding work for NIH on so many matters in his capacity as chairman of the Appropriations Committee. On Tuesday I again asked Dr. Varmus, as I have asked him and others at NIH, "How much would you be able to appropriately use on medical research?" I asked him this question because, in a Federal budget of $1.7 trillion, we could assess our priorities in a way to appropriate more for the National Institutes of Health. Yes, $13.65 billion is a lot of money, but it is not a lot of money in the context of a Federal budget of $1.7 trillion. Dr. Varmus told me that they would like to grant about a third of the applications, that they now grant something in the high twenties, and in addition to that there are other items they need in the way of equipment. I said, "You ought to make a list and tell us what it is you need." He said, "We have made a list, but we haven't told you what it is because we can't."

That is a reference to the Office of Management and Budget, which intercepts these estimates by the NIH and does not present them to Congress so the administration can maintain control over requests which are made by the various departments.

In our appropriations process next year, I intend to do my best to get that list and find out what Dr. Varmus and the National Institutes of Health would really like to have. It might be an interesting occasion for a subpoena. Our subcommittee never ever issues subpoenas. I know that takes our Committee staff by surprise to think of our doing that. But I think Congress would be prepared to make appropriation allocations for what could be effectively used by the National Institutes of Health.

Mr. President, in addition, we have some almost $30 billion for programs in the Department of Education, which is an increase of $3.3 billion above 1997. On this subject, I compliment President Clinton for his leadership on education. His last State of the Union speech highlighted education, and there was a real advocacy and leadership by the President on education when this matter came up. From time to time the President is subject to a critical comment or two, and I think it appropriate to note his leadership and his important work in getting this increase in education.

The bill also includes $1.1 billion in advance funds for LIHEAP, low-income home energy assistance, largely for senior citizens, Americans who, without this assistance, may have to make a choice between heating and eating. We have $1.15 billion for the Ryan White care program on a drugs issue, $861 million for programs for senior citizens under the Older Americans Act, $826 million for community health centers, $145 million for the breast and cervical cancer screening program for the Centers for Disease Control, $5.2 billion for employment and training

programs of the Department of Labor, including $871 million for summer youth job programs, $1.24 billion for the Job Corps, and $1.35 billion for dislocated worker assistance.

I might add a special note to the success by Governor Ridge of Pennsylvania and Mayor Rendell of Philadelphia, along with my distinguished colleague, Senator SANTORUM, and the Pennsylvania delegation in reopening the Philadelphia Navy Yard for shipbuilding on a very good arrangement where we will have retraining funds.

Mr. President, there is a great deal more I could say on the subject, but I note my distinguished colleague, Senator HARKIN, has some important comments to make, so I yield to him at this time.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I thank the chairman and my good friend, Senator SPECTER, for yielding this time.

I especially wish to thank Senator SPECTER, our chairman, and his staff for the skill they have demonstrated and the cooperation which they have given us in putting this bill together and working out the many compromises that were necessary to come up with this very bipartisan conference agreement. It took a lot of staff meetings, a lot of give and take, but the result is one that merits the support of all Senators.

This conference report, I believe, is the most important bill we will pass this year after the balanced budget agreement. It includes a number of very important advances.

First, the agreement significantly expands our Nation's commitment to quality education for our children. We have provided the largest increase for special education in our history. I repeat that. We have provided the largest increase for special education in our history. We have made college more affordable by increasing the maximum Pell grant to $3,000, the highest ever. We have expanded support to make sure schoolchildren have access to computers and other technology and for training teachers on how to use this technology. Computers in the classroom are of little value if the teachers do not know how to use them.

I am especially pleased that the conference committee agreed to my proposals to place greater emphasis on making sure that every American child enters school ready to learn. The agreement before us increases Head Start funding by $374 million. That is $50 million more than the President requested, and, more significantly, I believe this bill doubles the Early Head Start Program, that is, the birth-to-2-year-old program, at $279 million, so we have doubled the early intervention program for Early Head Start.

The conference agreement also provides an 11-percent increase in funding to $350 million for the early intervention program for infants and toddlers with disabilities under part H of IDEA, the Individuals with Disabilities Education Act. That is an 11 percent increase for that part H.

Finally, the conference report includes an additional $50 million for the child care and development block grant to increase the quality of child care for infants. We all know that these are front-end investments that will pay dividends for us in the future.

Mr. President, as most of my colleagues know, our subcommittee has worked for many years to combat fraud, waste and abuse in the Medicare Program. A recent audit by the HHS inspector general found that somewhere in the neighborhood of $23 billion was lost last year alone just to this problem of fraud, waste and abuse. I am pleased to say that the agreement before us significantly expands our efforts to stop this Medicare waste. Coupled with mandatory increases, our bill provides a full 25-percent increase in support for audits and other fraud-fighting activities, from $440 million to $550 million.

In addition, we have included bill language that provides Medicare greater resources to more aggressively target problem providers who are bilking the system. We need to do even more, including, at long last, to get to competitive bidding in Medicare just like they have gotten in the Veterans Administration. But the reforms in this will save Medicare and the taxpayers billions of dollars.

One major concern I have about this bill is our inability to adequately address our health services and training needs and simultaneously provide generous increases for health research. I am pleased that we have included nearly $1 billion additional for NIH, a total of over $13.5 billion, for medical research. But I am concerned that most health services programs received small or no funding increases. We just cannot continue to have this battle between the challenge to adequately fund biomedical research, which we have to meet, and the lack of increased funding for health services programs and training.

Now, I will not go into it at length here—I have given many speeches on the floor about this—but I feel strongly that the money we provide for biomedical research must come from outside of the discretionary pot of money we have.

Mr. President, during this session of the Congress, the Senate went on record 99 to nothing to double the funding for NIH over the next 5 years—99 to nothing. In other words, 99 Senators stood up and voted and said, yes, we should double funding for NIH in the next 5 years.

Now, if we did that within the constraints of the balanced budget agreement, with the pot of money that our committee has, at the end of this 5-year period of time there wouldn't be one penny for any other discretionary health program. In other words, the Senate has said 99 to nothing we want to double NIH funding. OK, if we do it through our Appropriations Committee, through the discretionary money that we have, there will not be anything left for any other health program. There would be no Centers for Disease Control, no Ryan White funding, no health training funding, nothing. That would all have to be zeroed out, and we still would not have enough money to double NIH funding.

So if we are really serious, and I hope we are, about doubling NIH funding over the next 5 years, then we have to find some source of funding that is outside of the normal appropriations process.

I am also concerned that our agreement does not adequately assure that the rerun of the Teamsters election will be supervised. I think that is vitally important. This bill does not adequately assure that. I am hopeful that is eventually what will happen. It is a commitment that we cannot back away from. I am hopeful that we can take some steps, when the Congress comes back in January and February, to make sure that the next Teamster election is in fact supervised.

But overall, as I have said, this is a very good agreement. It is a bipartisan agreement that deserves our support.

I again compliment Senator SPECTER and his staff and mine for a job well done. I want to specifically thank Craig Higgins, Betilou Taylor, Jim Sourwine, Dale Cabaniss, and Jack Chow of the majority staff and Marsha Simon and Ellen Murray of my staff. In addition, I want to thank Bev Schroeder, Laura Hessburg, and Peter Reinecke of my personal staff for their contributions.

Mr. President, I urge all Senators give wholehearted support to this conference agreement.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I know the Senator from North Carolina was wishing to speak.

Mr. FAIRCLOTH. I was hoping Senator SPECTER would yield time.

Mr. HARKIN. I will yield you time for Senator SPECTER. How much time does the Senator want?

Mr. FAIRCLOTH. About 5 minutes.

Mr. HARKIN. The Senator has 5 minutes.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. I thank the Senator for his work on this bill. He has eliminated funding for national testing as well as funds for Teamsters elections. He has preserved my amendment that would require the Education Secretary to certify that 90 percent of the

funds from education go to students and teachers.

(The remarks of Mr. FAIRCLOTH pertaining to the introduction of S. 1458 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Who seeks recognition?

Mr. GORTON. Mr. President, will the Senator from Pennsylvania yield me 5 or 6 minutes?

Mr. SPECTER. I will be delighted to yield to my distinguished colleague, Senator GORTON.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I am going to vote enthusiastically for this bill, the result of countless hundreds of hours of work on the part of the chairman and the ranking minority member, other members, and their staffs. It does make many, many decisions that are important for the future of our country.

I am, however, deeply disappointed that one element in the bill that passed the Senate of the United States is not included in this bill, an element that was vitally important and provided a vitally necessary reform for our schools. For decades now, Washington, DC, has assumed increasing control over our local schools. Washington, DC has not, however, put its money where its mouth is. With Congress appropriating about 7 percent of the money spent on education, we have allowed our bureaucrats to impose half or more than half of the rules and regulations that so often frustrate innovation and success in our schools. During the past few years, on the other hand, I have listened to countless parents, teachers and principals who almost universally agree that it is time for Congress and the President to restore the authority that our teachers, parents, and local school boards once had to make decisions for our schools.

In September, I proposed a sweeping reform to improve education for kids in schools everywhere in America. That reform would have given Federal education dollars directly to local school districts so that parents, teachers and principals would have the money and authority to make the best decisions for their children. They would have been empowered to determine their children's needs and to use their Federal dollars in a manner that is best for kids: For new schools, for lower class sizes by hiring more teachers, to purchase computers, or whatever else citizens in communities all across the United States decided that their schools needed. And they could have done it all without Washington, DC, having told them how to do it.

That sweeping reform is based on the simple philosophy that Washington, DC, does not know best. I believe that all of the laws passed by Congress and all of the regulations adopted by the Federal Department of Education have failed to reach their goals. I believe teachers in the classroom, principals in our buildings, and local school boards and parents, will make better educational decisions and do more to improve their own schools than will Congress or the Federal Department of Education.

For most of this century, Washington, DC, has been dominated by people who believe that centralized decisions and centralized control exercised by Washington, DC, is the best way to solve problems, including those in the classrooms. Unfortunately, the approach has not worked. As Washington, DC, has taken power and authority from local school districts, our schools have not improved. Sadly, old habits die hard. That belief in centralized power is still very much alive. When I proposed my amendment, every single Democrat in the Senate opposed it and the President vociferously criticized the approach of returning money and authority directly to our school districts. I suspect that, had a vote been taken in the House, the result would have been almost the same.

Recently, I attended a Senate Budget Committee education task force hearing, at which Carlotta Joyner from the General Accounting Office testified that in 1997, $73 billion was distributed through literally hundreds of programs and more than 30 Federal agencies to support education in this country. For a great number of those programs, there is no record of whether they have succeeded or failed, and in some cases no way of measuring that progress or lack of progress. The Department of Education did not even account for half of that total dollar figure. This complex web of education programs only serves to frustrate the efforts of those who know best how to educate children in this country—parents, teachers, principals, superintendents and school board members.

Over the coming months, I know that many of my colleagues will give speeches in their home States and will almost certainly be required to cover education. I remind my colleagues that when they speak eloquently about local control of schools, they have all had an opportunity in this body to vote for or against that proposition. The conference committee on this bill voted against it.

Finally, I want to let all of my colleagues know that the fight for restoring the traditional role that parents, teachers and principals play in education is not over. I intend to keep forcing tough votes on my colleagues, tough votes that I believe will eventually lead to letting our school districts do what is best for our children—without being told by Washington, DC, how to do it.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. The distinguished Senator from Minnesota, Senator GRAMS, wishes some time.

Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator controls 21 minutes 30 seconds.

Mr. SPECTER. How much on the other side?

The PRESIDING OFFICER. They have 31 minutes.

Mr. SPECTER. I yield 5 minutes to Senator GRAMS.

Mr. GRAMS. I ask unanimous consent to be able to speak for the 5 minutes as in morning business.

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

Mr. SPECTER. Mr. President, will that be charged to the bill?

The PRESIDING OFFICER. No, it will not.

Mr. SPECTER. In that event, would the distinguished Senator from Minnesota speak on the bill and then ask unanimous consent to include it as in morning business? The Parliamentarian would like it charged to the bill.

So we will vote at 2:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. We would not want to hold up so many airplanes, Mr. President.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I just had a couple of statements I wanted to put into the RECORD for today, dealing with the action here on Labor, Health and Human Services, and also on another unrelated item dealing with the dairy decision in Minnesota earlier this week.

Later today, as noted, the Senate will complete action on the Labor, Health and Human Services appropriations bill which was passed by the House last night. I wanted to express my appreciation to Senator SPECTER, chairman of the Labor, HHS Appropriations Subcommittee for including a 1-year correction of Minnesota's disproportionate share allotment, otherwise known as DSH. I also want to thank the conferees for accepting this correction as well. Without this correction, Minnesota's hospitals stood to lose millions of dollars in DSH payments, due to an error on the form that the State filed with the Health Care Financing Administration. While that error was corrected when the State filed an amended form with HCFA, the Balanced Budget Act did not allow HCFA to consider amended forms in determining each State's DSH allotment.

Again, I would like to express my thanks to our chairman, Mr. SPECTER, and also Chairman STEVENS for their assistance and guidance in finding a temporary fix to this problem.

Mr. President, the Labor, Health and Human Services appropriations bill

will buy some time for Minnesota hospitals and allow Congress the opportunity to permanently correct this unfortunate error.

Although Minnesota hospitals have received a 1-year reprieve, it is important that we permanently correct the DSH allotment error. It is my understanding that Minnesota was not the only State with DSH allotment concerns, and those States will also need a permanent solution.

I look forward to next year when these problems might be addressed in the form of a technical corrections measure.

U.S. DISTRICT COURT CLASS I DIFFERENTIALS RULING

Mr. GRAMS. Mr. President, on an unrelated matter, I also want to take a moment this afternoon to rise in support of the U.S. district court decision that prohibits the U.S. Department of Agriculture from enforcing class I differentials when it comes to dairy and the Nation's milk marketing order system.

The ruling states that the class I price structure provided under USDA's Federal milk marketing order is unlawful. This ruling was made after providing the Department three opportunities to justify this antiquated regulation which has, again, been found to be arbitrary and capricious.

I strongly urge the Secretary to forgo any further litigation on this matter.

Judge Doty's decision has confirmed what we have known all along, and that is that the current class I price structure is unfair and that it makes no economic sense.

The 1996 farm bill requires the Secretary to provide price structure and Federal milk market order reform. This process is currently moving forward, and there should be no legislative maneuvers to restore the rejected state of affairs. I will be guarding against legislative initiatives put forth by regional interests which would attempt to restore the inequities of the former system.

USDA and Members of Congress must move forward and cease to be hamstrung by arcane economic models. Traditional economic models are not sufficient in constructing a dairy policy for the next century. The imposition of the 1937 dairy legislation on 1997 dairy economics is ludicrous.

Today, we have heard from our colleagues from Vermont that without the current system, the rest of the country would be at the mercy of the Midwest for a fresh supply of milk. We are not asking for a monopoly, only that the heel of Government be removed from our dairy farmer's throats so that they be allowed to compete fairly.

There is no room for regional politics in Federal dairy policy. We should not encourage inefficiency.

The United States district court has rendered its decision, and now it is in Secretary Glickman's hands to institute long-term and significant dairy reform which will restore equity to U.S. dairy policy.

Thank you very much, Mr. President. I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield to my distinguished colleague from Iowa—how much time?

Mr. GRASSLEY. I would like to have 4 minutes.

Mr. SPECTER. Four minutes speaking on the bill, and then he may want to make an as-in-morning-business request to be sure it is subtracted from the time on the bill. The Parliamentarian nods in the affirmative.

The PRESIDING OFFICER. It will be.

Mr. GRASSLEY. I make the unanimous-consent request that the Senator from Pennsylvania enunciated.

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

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 1459 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. I yield the floor.

Mr. DURBIN addressed the Chair.

Mr. HARKIN. Mr. President, I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. DURBIN. Mr. President, I thank my friend from the State of Iowa, Senator HARKIN. I also thank the Senator from Pennsylvania, Senator SPECTER.

This is a good bill. It is not an easy bill to write. Having been a member of the Appropriations Committee in the other body, I know some bills are tougher than others. This is the toughest.

The committee empowered with writing this legislation entertains literally hundreds of witnesses who ask for help in this bill. Some are the most touching and amazing stories, as people come before this committee with a variety of different medical problems and ask for help in funding research at the National Institutes of Health. I am really encouraged that this piece of legislation increases spending on Federal medical research projects by 7 percent. I wish it were a lot more, and I bet the Senator from Iowa and the Senator from Pennsylvania agrees. Not too many years ago, we found that the NIH was only approving a fraction of those good research projects which should have been funded. There just wasn't enough money there.

Anyone in this body, any member of our family, anyone listening to this statement, either in the galleries or by television, understands how vulnerable we all are to medical illness. There are times in each of our lives when we pray that someplace at sometime someone is investing enough money to make sure that the cures for these illnesses are found. This is the bill that invests the money.

People say, what do these people do in Washington that has any impact on my life? We invest money in the National Institutes of Health to try to find ways to cure cancer, heart disease and a variety of diseases that are not as well known. I commend my colleagues who work hard on this committee to make it happen.

Another contentious issue in this bill is the whole issue of education testing. I don't particularly like this bill's provision on education testing. I see it a lot differently. I understand at some point the debate has to end, and we have to move forward to pass the legislation.

I believe in local control of education, but I think it is naive for us to believe that we should live in a nation where 50 different States set 50 different standards for scientific educational achievement. For example, the kids graduating in Illinois may go to work in Iowa. The kids graduating in Iowa may end up going to Nebraska. The kids in Nebraska may end up going to California.

The education standards we are espousing and the ones we are trying to make certain we achieve should be nationwide goals. Understanding the achievement levels of our schools is the first step toward appreciating the good schools and improving those that aren't as good.

The city of Chicago is going through a dramatic change in reforming its public education system. The city of Chicago voluntarily signs up for national testing to make certain that the kids coming out of those schools can make it wherever they happen to live. As a result of that testing, the public school system of the city of Chicago virtually closed down seven high schools within the last few months and said those high schools just aren't meeting the basic requirements for the kids. They demanded that the teachers in those schools basically step aside and only those who were competent were rehired. Others were told they had to do something else with their lives. That is what testing can give you, some objective standard to make a tough decision.

The final point I will make in conclusion, I especially thank the conferees

for including a provision that I added to the Senate version of the bill. Section 608 of this conference committee report includes the provision which I added on the floor of the Senate which basically nullified the $50 billion setoff that was given to tobacco companies in a tax bill that was passed a little before our August recess. It turned out the vast majority of my colleagues agreed with me that this was a bad provision, and we eliminated it. The conference committee has honored that and kept it in the bill.

Let me say in closing that I hope as part of the tobacco settlement agreement, with the leadership of Senator HARKIN and so many others, that we cannot only do the right thing in reducing kids smoking, but come up with the revenues to put it into things that are critically important, such as medical research, so that maybe next year when this appropriations bill comes to the floor, we won't be talking about a 7-percent increase in medical research but a dramatically larger increase paid for by the tobacco settlement agreement.

I thank the Senator from Iowa and the Senator from Pennsylvania for their fine work on this bill. I yield back the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I be allowed to have 5 minutes off Senator SPECTER's time.

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

Mr. HARKIN. How much time does Senator SPECTER have remaining?

The PRESIDING OFFICER. The Senator from Pennsylvania has 12 minutes.

Mr. HARKIN. I yield 5 minutes off Senator SPECTER's time to the Senator from Alabama.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alabama.

VETERANS DAY

Mr. SESSIONS. Mr. President, I rise today to speak about our Nation's celebration of Veterans Day next Tuesday. In doing so, I would like to take a few minutes to tell a short story; a story that I think needs retelling from time to time lest we forget some of the history that makes our heritage so special. Please forgive my use of a little artistic license for the sake of narration.

My story begins in the fall of 1947 in Birmingham, AL. Close to the drug store where this story begins is a memorial honoring the Confederate Army's 10th Alabama Regiment. The men of this incredibly fine unit made a now famous charge up the slope of Little Round Top at Gettysburg on a hot day in July 1864. Imagine, if you will, these brave souls charging, without hesitation, bravely up that wooded slope toward the Union's 20th and Maine, a unit known to many and commanded by Col. Joshua Lawrence Chamberlain. For many dressed in Blue and Gray, the last steps they would ever take were made that fateful day.

This is not an unfamiliar story in war; men going away from their home and their families to place their lives on the line for their country; taking each breath in combat and wondering if it would be their last. Mr. Raymond Weeks, one of the heroes of this story, knew the horrors of war. He had just returned home from the Pacific theater. He knew as well the trials and tribulations of fighting in a war and he knew too of wearing the title of "veteran." His circumstance, Mr. President, was similar to that of my father, now deceased, who had likewise just returned from the Pacific, to open a general store with a gristmill in the small community of Hybart, AL.

On that fall day in 1947, Raymond had stopped in his local drug store where he bumped into some of his buddies who had also returned home from overseas. Talk at the drug store turned to the upcoming celebration of Armistice Day, started nationally just nine years before in 1938. You see, Mr. President, many Americans still remember when, on November 11 of each year, America and the world celebrated the signing of the Treaty of Versailles, the treaty commemorating the armistice that ended the First World War on the 11th hour, of the 11th day, of the 11th month of the year in 1918. Thus ended "the war to end all wars."

Yet, years later, World War II also stole the youth of many nations and many of Raymond's and my father's friends as well. Raymond Weeks suggested that the group should "do something" in town to honor the memory of those comrades who had fallen in battle. With that, this small group of men began planning a local celebration to honor not just the veterans of World War I and the Versailles Armistice, but of World War II, and American veterans of all wars.

On Armistice Day, 1947 the very first Veterans Day parade was held in Birmingham, AL. The parade drew such a great turnout that it became a yearly event, even though there was no official national recognition of Veterans Day at that point.

Over time Raymond Weeks formed a small committee and eventually traveled to Washington, DC, to approach then Army Chief of Staff, Gen. Dwight D. Eisenhower with their idea for a national holiday. History records that General Eisenhower expressed immediate approval and referred the idea to Congressman Edward Rees of Kansas. Subsequently, H.R. 7786 became Public Law 380, a law which changed the name of Armistice Day to Veterans Day. Passed by Congress, the bill was signed into law, ironically, by President Eisenhower on June 1, 1954.

What Raymond Weeks did was remarkable; even extraordinary. The Veterans Day Raymond Weeks helped to create does more, Mr. President, than just honor those who served in America's Armed Forces. Veterans Day, as hosted by Bill Voight and the National Veterans Day Committee and still celebrated annually in Birmingham, AL, extends its boundaries beyond those who fought in Korea, Vietnam, Grenada, Panama, and Desert Storm, it extends its reach to those who serve today in the ships conducting NEO operations off the coast of Africa, in the tanks manning outposts in Bosnia, to the sandy slopes of the Sinai, and to the cold ridges of the DMZ in Korea. There should be no doubt that Veterans Day is a special day that pays annual homage to the ongoing sacrifices of our men and women in uniform.

While we were home, safe, these veterans were spread around the globe protecting our liberty and freedom and our security. To them a great debt is owed.

Veterans Day, Mr. President, acknowledges the responsibilities and the special burden's that our Nation's men and women shouldered in the past. It acknowledges too the responsibilities and burdens of those in uniform today. And it calls on each of us to honor the legacy of veterans past and the dedication of today's military personnel, by renewing our responsibility to ensure that our Nation remains the strongest on earth, fully able to defend its just national interests whereever and whenever they are challenged.

To all those great Alabamians and Americans who paid the ultimate sacrifice, to all those who survived, and to those who serve today, it is fitting that we pause with a humble and grateful heart and say thank you for their sacrifices which have kept us free.

God bless the United States of America and may we be worthy of His blessing.

Thank you, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from New Mexico.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. BINGAMAN. Mr. President, I would like to take a moment to comment on the agreement that has been

entered into on national tests. Do I need to have time yielded?

The PRESIDING OFFICER. Yes, you would.

Mr. HARKIN. Mr. President, I yield 10 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I appreciate the time very much.

Thank you, Mr. President.

VOLUNTARY NATIONAL TESTING

Mr. BINGAMAN. Mr. President, let me just comment on the agreement that has been reached on the issue of national tests and is part of the conference report that we are getting ready to vote on.

After weeks of delay, and essentially a campaign of misinformation waged against voluntary national tests, we now have an agreement that will allow parents to know how their children are really doing in school. And they will be able to know that as soon as the 1999–2000 school year.

As my colleagues know, people who paid attention on this issue, I have long advocated developing voluntary national education tests. And despite the firestorm of controversy that has erupted here on Capitol Hill in the last week or two, the vast majority of Americans have always thought that this was a good idea. Why should we continue to fumble around in the dark trying to guess what is wrong with our educational system when we can simply turn on the light and see for ourselves?

For these reasons, I worked with others here in the Senate to negotiate the initial Senate compromise that we approved here by a vote of 87 to 13. I worked with my colleagues to ensure that the Labor-HHS conferees knew how important it was to have new tests that States could use if they chose to as soon as possible. Here on the floor I have done my best to describe the myths and the realities of what national testing is all about.

As a result, I am glad to report that an agreement on moving forward with developing new tests has been finalized.

In essence, this new agreement does four things.

First, it transfers control over development and administration of voluntary national tests to the National Assessment Governing Board. That was part of what we discussed and proposed here in the Senate version of the legislation. And I think that was a very good proposal. So I am very glad to see that in this final bill.

Second, it calls on the National Academy of Sciences to conduct a study about whether it is feasible to link State and commercial tests to the rigorous National Assessment of Educational Progress.

Third, it allows for development of new national test items aligned with the National Assessment in the areas of 4th grade reading and 8th grade math.

And, fourth, it eliminates any prohibition against future implementation of the new tests without prior congressional authorization.

In my view, there are two main benefits to this agreement.

First, transferring control to this National Assessment Governing Board, NAGB, takes the same approach as the Senate compromise. This ensures that the tests are controlled by an independent and bipartisan agency with a proven record of administering national assessments.

The second benefit of this agreement is that it removes any explicit requirement for future congressional authorization before implementation of testing. Making sure that the tests are available to be used is one of the most important objectives here. There is no point in having shiny new tests ready and on the shelf if States and districts and parents who want to use those are prohibited from doing so. This agreement puts the burden of blocking any implementation of national tests on those who would oppose States and school districts and parents from using them when they want to.

In my view, these provisions are all reasonable steps to take. They allow the process to go forward. They establish a level playing field for authorizers and appropriators during any future disputes about the implementation of national tests next year. And they provide reassurances against inventing a wheel that we have already invented before.

Let me make a few additional statements though about the agreement.

First, I want to clarify that, in fact, the agreement does allow the development of national testing to go forward this year. The development of fourth grade reading and eighth grade math exams based on the National Assessment of Educational Progress will go forward during the upcoming school year. Starting in the next fiscal year, this National Assessment Governing Board can begin piloting and field testing these items, which are necessary steps for implementing the tests in the spring of 2000.

Second, I would like to lower people's expectations about the proposed study of the feasibility of linking State and commercial tests to this National Assessment. That is because the current hodgepodge of State and commercial tests cannot replace a uniform national test and are almost certainly not comparably vigorous to the National Assessment of Educational Progress.

Few of the current State tests require more than 10th grade learning levels. The percentage of students who score proficiently in the National Assessment of Education Progress on any given subject is usually much lower than the percentage of students who pass a State exam or a commercial exam.

A series of studies and reports over the past two decades, have shown that linking State or commercial tests is a costly and an uncertain undertaking. In the end, the National Academy of Sciences study will most likely reiterate the need for a voluntary national test.

Third, I would like to say that it is unfortunate that the opponents of voluntary national testing did not allow the agreement to include as many protections against discriminatory uses of the tests or bias or other safeguards for poor and minority students as were in the Senate version of the test proposal that we negotiated here. Coming from a State with many poor and minority students, I am committed to ensuring that any new tests are fair to all who take them.

Overall, I would have to say that this agreement brings us closer to the day when we will have a national yardstick to measure students' academic progress and gauge how well our education system is doing, and not just the system overall, but be able to gauge how the system is doing on a State by State basis or a district by district basis.

I know that there are those who oppose this effort who still fear that voluntary national tests will undercut local control. I myself would have preferred to move faster than this bill will move us. But I am glad that the commonsense potential of developing these measures now seems clear to all and that we can finally move forward.

Mr. KENNEDY. Mr. President, I commend Senator SPECTER and Senator HARKIN for giving education the high priority it deserves in the fiscal year 1998 Labor, Health and Human Services, and Education appropriations conference report, and I give it my strong support.

We all know the serious challenges we face in improving public education and increasing access to college. Enrollments in elementary and secondary schools have reached an all-time high of 52 million children this year, and will continue to rise in the years ahead. Forty percent of fourth graders score below the basic level in reading, and fewer than 30 percent score in the advanced category. Yet our modern economy and the country's future depend more and more heavily on well-trained people.

This bill increases funding for Federal education programs by $3.4 billion over last year to help provide young children with a good education and help more qualified students go to college.

The bill provides a $1.5 billion increase in Pell grants to help an additional 210,000 young people attend college, and increases the maximum Pell grant from $2,700 to $3,000.

The bill increases funding for title I by $200 million to help disadvantaged students get the extra help they need to improve their math and reading skills.

The Education Technology Literacy Challenge Fund is more than doubled, from $200 million to $425 million. The technology innovation challenge grants receive $106 million, an increase of $49 million, to help teachers learn to use technology effectively and help schoolchildren prepare for the 21st century. The highly successful Star Schools Program will receive $34 million to continue to provide educational services to remote and underserved areas.

The bill also increases Head Start funding by $375 million, including $279 million for the Early Head Start Program, to help more preschool children reach school ready to learn.

Special education receives $775 million more than last year to help more children with disabilities get a good, appropriate education.

The bill also contains a compromise on the issue of testing. Despite the efforts of many parents, schools, and communities to improve education, too many schools in communities across the country are educating in the dark. They have no way to compare the performance of their students with students in other schools in other communities in other parts of the country. We know that by every current indicator, the performance of American elementary and secondary school students falls far short of the performance of students in many other countries. We have to do better, and knowing where schools and students now stand is an essential part of helping them do better.

This bill addresses these issues by including a fair compromise on President Clinton's proposal for voluntary national tests based on widely recognized national standards, so that parents, communities, and schools will have a better guide for improving local education. The voluntary national tests will be designed to test fourth grade reading and eighth grade math—two basic subjects at two critical times in students' academic development.

Parents want to know how well their children are doing and how well their schools are doing, compared to other students and schools across the Nation.

Voluntary national tests are an effective way to support local school reform, and I commend the conferees for their decision to move forward on these tests.

This bill takes another step forward in higher education, too, by creating the Emergency Student Loan Consolidation Act. I commend Senator JEFFORDS for his leadership in continuing to make paying for college easier for more students.

The Emergency Student Loan Consolidation Act reflects Congress's concern for students who have been unable to consolidate their loans in the direct loan program due to problems with the Department of Education's contractor. The act responds by opening up consolidation under the bank loan program to students who have direct loans. It does so without undermining the Department of Education's ability to pay for the administration of the loan programs.

The act contains important nondiscrimination provisions that will help prevent lenders from choosing to allow consolidation of loans only for the most profitable borrowers. We will have an opportunity to do more on nondiscrimination during the reauthorization of the Higher Education Act, but this bill is a good step toward making loans truly available to all students.

The act also makes an important adjustment in the needs analysis calculation, so that needy students will benefit more effectively from the President's new education tax credits. Students who benefit from the HOPE tax credit and the life-long learning tax credit should not be penalized in their eligibility for future Federal financial aid. This change will help approximately 70,000 needy students, and it is an important part of this act.

In addition to these advances in education, I also commend Senators SPECTER and HARKIN for including increased funding for important health, energy, and biomedical research programs.

This year's spending bill provides more funds for the Ryan White AIDS Program and the Community and Migrant Health Program.

It provides $1.1 billion in fiscal year 1999 for LIHEAP, which will enable this program to serve thousands of additional senior citizens, the disabled, and working families by providing them with heating and cooling assistance.

And it provides an increase of $907 million over last year for the National Institutes of Health. These investments in biomedical research hold great promise for the Nation to cure or prevent illnesses, and can also be an important factor in finding a long-term solution to the fiscal problems facing Medicare.

One of the few major problems with the conference report is that it retains the ban on using any Labor Department funds in the bill to oversee the forthcoming Teamsters election. That election is a rerun of the 1996 election conducted under government supervision as part of the important ongoing effort to free the Teamsters from domination by organized crime. The 1996 election was cancelled because of fundraising improprieties by both sides driving the election campaign. A Federal court has ordered a rerun of the election, and Labor Department funds should be available to supervise it.

The conference report is also disappointing in its funding of the National Labor Relations Board, which is frozen at last year's level. This result will require the agency to lay off 50 employees, and will hamper its ability to process its pending cases. There is no justification for Congress to disrupt the Nation's industrial relations in this way.

There are many worthwhile provisions in this bill, and I intend to support it. But I hope that in action early next year, we can reconsider these unwise provisions and achieve a more satisfactory resolution.

DIABETES

Mr. DOMENICI. I would like to engage the distinguished chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, Senator SPECTER, in a discussion about certain details of the fiscal year 1998 funding for the Centers for Disease Control [CDC] and Indian Health Service [IHS] regarding American Indians and diabetes.

Mr. SPECTER. I would be happy to respond to the Senator from New Mexico about the intentions of my committee with regard to funding diabetes programs for American Indians through the CDC. I am also interested in his ideas about coordinating efforts between the CDC and the IHS.

Mr. DOMENICI. Earlier this year, I wrote to you about my interest in establishing a national diabetes prevention research center in Gallup, NM.

Mr. SPECTER. Yes, Senator DOMENICI, I recall your letter of June 26, 1997.

Mr. DOMENICI. In that letter, I requested $8 million for CDC to establish a national diabetes prevention research center. It is my primary intention to see this center begin a serious and vigorous effort to control the diabetes epidemic among American Indians through greatly improved, culturally relevant diagnosis and prevention, with preliminary attention to the Navajo Tribe and the Zuni Pueblo near Gallup, New Mexico. I believe CDC is the best agency in our Government to lead this very specialized task. I also hope to find better prevention strategies that will benefit the large Hispanic population of the city of Gallup, the States of New Mexico, Arizona, Texas, and California, and minority communities nationwide. I am also hopeful that the prevention research conducted in Gallup would be a major benefit for the large population of African-Americans who have this disease.

Mr. SPECTER. I certainly agree that prevention research is a very specialized field that must prove itself to be culturally relevant and attractive, or it will be meaningless. It is also my understanding that diabetes is rampant among American Indians and getting worse. The rate is almost three times as high among Indians as it is among all Americans. The national rates of diabetes among Hispanics, Blacks, and Asians are also among the highest in

the Nation, and are about double the rate among Americans as a whole.

Mr. DOMENICI. When I held a hearing about the seriousness of diabetes among Navajo and Zuni Indians, and Hispanics in the Gallup area, I was pleased to learn that there are relatively inexpensive ways—such as the monofilament device for testing circulation in the feet—to detect diabetes at an a early stage. We want to incorporate early detection into our prevention activities, so that the Indian populations most susceptible to this disease will have better diagnostic information as early as possible.

Among the Navajo Indians, we are told that 40 percent of all Navajo Indians are diagnosed as diabetic, and this high rate is among known cases. The sad truth is that testing is very sparse in the remote areas of the Navajo Nation. Some experts fear that the rate could actually be nearly twice as high, if better outreach were performed. I view the Gallup center as the national center for finding better ways to improve outreach and diagnosis among native Americans. The earlier a person knows about the onset of diabetes, the more can be done to prevent it.

Mr. SPECTER. I concur with the Senator's observations.

Mr. DOMENICI. I would like my colleagues to know that I met with Health and Human Services Secretary Donna Shalala in my office about the seriousness of this epidemic among American Indians. The Secretary offered her own plan to establish this diabetes prevention research center in Gallup, NM. She recommended "a single $8 million per year, multiyear award for a large-scale, coordinated primary, secondary, and tertiary prevention effort among the Navajo, who have a large population with a high incidence of diabetes and risk factors for diabetes."

Her support for the Gallup research center came as welcome news. In working with the CDC, we have obtained an estimate of at least $2 million for the first year startup costs for this center. The Senate committee report on this bill specifically mentions the Gallup prevention research center. Would the chairman agree that the conferees intended to target at least this amount for the first year costs of establishing to Gallup center?

Mr. SPECTER. Yes, I would agree that the increase in funding for CDC for fiscal year 1998, includes sufficient funds for this purpose, and the House has concurred with the Senate's intention to do so. The conferees intend to increase both prevention and treatment activities among native Americans. The final bill also contains at least $2 million for CDC programs among native Americans. In addition to this general Indian funding, I believe the Senate report clarifies our intention to fund the Gallup prevention research center in the first year from fiscal year 1998 funds. This program would then continue as envisioned by Secretary Shalala on a multiyear basis.

Mr. DOMENICI. I Thank the chairman for these important clarifications of congressional intent in this final Labor-HHS-Education Appropriations bill for fiscal year 1998. I would like to add one final comment about the Balanced Budget Act of 1998. In that act, signed by the President, we included $30 million annually for the prevention and treatment of diabetes among American Indians for the next 5 years.

As most American Indians with serious diabetes problems live on or near the reservations, we have allocated $30 million per year for enhancing the prevention and treatment of diabetes through the Indian Health Service of the Public Health Service in the U.S. Department of Health and Human Services.

I have written to Secretary Shalala asking her support for partial funding of the Gallup center from this Balanced Budget Act allotment. While I have not received a definitive answer yet, I remain optimistic that the Secretary will see the value of directing the IHS to coordinate its prevention efforts with the CDC through the Gallup center. Does the chairman concur with this strategy?

Mr. SPECTER. I commend the Senator from New Mexico for his thoughtful and coordinated approach to the problems of diabetes for minorities, especially American Indians. I concur that CDC and IHS would be an invaluable combination at the Gallup prevention research center.

Mr. DOMENICI. I thank the Chairman for his thoughts on this vital coordination issue. I am convinced that the IHS could improve the effectiveness of its outreach and prevention efforts, funded in the Balanced Budget Act, by using the most current information and prevention strategies developed at the national diabetes prevention research center in Gallup, New Mexico.

Mr. SPECTER. As the Senator from New Mexico has suggested, I would hope that IHS would invite the CDC to participate in developing meaningful prevention strategies at the Gallup research center with funds from the Balanced Budget Act of 1997. I would add that the resources of the National Institutes of Health [NIH] and the National Center for Genome Research would be other valuable resources for both the CDC and the IHS to incorporate into their efforts.

I thank the Senator from new Mexico for his coordinated efforts to bring immediate assistance to American Indians, especially the Navajo and Zuni Indians in the Gallup area. I believe this diabetes prevention research effort in Gallup will benefit the Pueblo Indians, Apaches, and other Indian tribes nationwide.

I fully support Senator DOMENICI's efforts to start and maintain funding for the national diabetes prevention research center in Gallup, NM, funded by both CDC and IHS resources as we have discussed.

Mr. DOMENICI. I thank the distinguished Chairman, and I look forward to working with him again next year to continue our progress in funding vital programs for controlling the epidemic of diabetes among American Indians and other minorities.

Mrs. HUTCHISON. I would like to engage the distinguished chairman of the subcommittee in a colloquy regarding the statement of the managers on fiscal year 1998 Labor Department appropriations. During the debate on S. 1061, I brought to the attention of the chairman an important project that is making a difference in the lives of poor people in two cities in my State and in many other cities across the country. The Community Employment Alliance [CEA], sponsored by the Enterprise Foundation, is working with community development corporations, State and local governments and the private sector to provide a range of employment and training and job creation service to welfare recipients. I appreciated the support of the chairman in urging the Department of Labor to give full consideration for application by the Enterprise Foundation to provide funding for the Community Employment Alliance.

Mr. SPECTER. I want to thank the Senator from Texas for all her efforts to gain the support of the conference committee for this important project and for the work the Community Employment Alliance and the Enterprise Foundation are doing in welfare to work. I am pleased to inform the Senator that the statement of the managers accompanying the conference report includes a reference to the Community Employment Alliance and urges the Department of Labor to give careful consideration to a proposal for funding.

Mrs. MURRAY. Mr. President, I rise in support of the conference report to accompany the fiscal year 1998 Labor, HHS, and Education appropriations bills, but I am also sadly disappointed in the actions of the other body concerning my amendment to clarify the family violence option.

The conference report before us today in the result of a bipartisan effort that focused on the priorities important to American families; education, a safe work place, biomedical research and disease prevention, child care, Headstart, and low-income energy assistance. I was proud to work with my colleagues in producing this conference report. I want to thank Chairman SPECTER and Senator HARKIN for their willingness to work with all of us in negotiating a final bill with the other body. I also want to thank both

of them for including many of my priorities in this final legislation.

I am pleased that we were able to increase our commitment to the Older Americans Act programs, breast and cervical cancer research, heart disease prevention, literacy, child care, Headstart, and maintain a strong Federal role in education. I know that in a balanced budget framework meeting these priorities was a difficult task and am grateful for the leadership shown by Senators SPECTER and HARKIN.

While I worked to ensure the enactment of important increases in our investment in our future, I am sadly disappointed that this final conference report does not include my amendment to protect victims of domestic violence and abuse from the harsh punitive requirements called for in welfare reform. Despite a 98 to 1 vote in the Senate, Republicans on the conference committee from the other body, refused to help victims of family violence from continued abuse. This is a big loss that will come back and haunt us as the States begin full implementation of their welfare reform plans.

The Republicans in the other body seemed more concerned about grossly incorrect statements made by the chairman of the House Ways and Means Committee and the chairman of the Subcommittee on Human Resources. It was interesting to see that the chairman of the Human Resources Subcommittee felt it necessary to attend the final conference meeting to ensure that there was no further effort to give States the flexibility that they need to truly help those victims of domestic violence.

In a letter to the conferees, the chairman of the House Ways and Means Committee concluded that the way to break the cycle of violence was to improve the self esteem of moms; this could only be accomplished through work. This statement in itself explains the difficulty I have had in getting this amendment enacted into law. There appear to be some Members of Congress who firmly believe that domestic violence is the fault of the woman.

I will ask that this letter be printed in the RECORD so that the American public can see how some Members of Congress view family violence and abuse.

While I am disappointed in the lack of consensus on my amendment, I am pleased to report that as a result of the courage shown by the Senate and the public debate conducted on my amendment, the chairman of the Human Resources Subcommittee in the other body has pledged his support for hearings on this important initiative. I am also inserting a copy of his letter to me stating his intention to hold these hearings. I intend to hold him to this commitment and am hopeful that hearings will be held early in 1998. Depending upon the status of these hearings, I intend on maintaining my strategy of offering this amendment to each and every appropriate legislative vehicle. I will not give up until this amendment is adopted. The stakes are simply too high. The lives of too many women and children are at stake.

I ask unanimous consent that the letters to which I referred be printed in the RECORD.

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

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 26, 1997.

Hon. JOHN EDWARD PORTER,
Chairman, Subcommittee on Labor, Health and Human Services, and Education, Washington, DC.

DEAR JOHN: We want to draw your attention to a provision added to the Labor, HHS, and Education appropriations bill in the Senate that we strongly oppose. Senator Murray and several others offered a floor amendment concerning domestic violence that received nearly unanimous support. Unfortunately, this amendment does not, as claimed "clarify" a provision of last year's historic welfare reform bill but instead would have the effect of gutting the reform.

As nearly as we can tell, every Member of Congress and virtually every American citizen abhors domestic violence. Every level of government already has strong laws, including criminal laws, designed to deal with the perpetrators of domestic violence. Moreover, in the last decade or so, the nation has made significant progress both in increasing awareness of this serious problem and inventing both civic and governmental responses to the problem.

But fighting domestic violence by adopting a national policy of exempting welfare mothers, who may have been abused, from the work requirements and time limits of welfare reform is not a wise policy. First, we cannot understand how keeping mothers dependent on welfare can help them achieve independence from an abusive partner. There may be some exceptions to the rule, but in the vast majority of cases women who can support themselves and their children have a much better chance of escaping an abusive relationship. In recent years, Congress has enacted generous non-welfare benefits including tax credits, expanded health coverage; and more day care, all of which are designed to help women with children become self-supporting. The domestic violence trap can only be broken when mothers improve their self-esteem through work. Thus, exempting these mothers from the work requirements and time limits seems to be precisely the wrong thing to do.

Second, states already can exempt 75 percent of their caseload from the work requirement in the first year. Even when the work requirement is fully implemented in 2002, states will still be able to exempt half of their caseload. If in some special circumstances a mother involved in an abusive relationship would be helped by being temporarily exempted from the work requirement, states have plenty of room under existing law to provide the exemption. Similarly, the 5-year limitation on benefits is drafted so that states can exempt up to 20 percent of their caseload from the requirement.

Thus, under current law, states already enjoy a great deal of flexibility that can be used to address the needs of individual mothers. To allow states to ignore all cases in which abuse is involved is to invite them to destroy both the work requirement and the time limit. We have seen numerous claims that the original welfare reform bill intended to allow states to exempt these cases without counting them against the ceiling on work and time limit exemptions. As the authors of the original bill and the bill finally enacted by Congress and signed by the President, we want to clear up this myth. Such exemptions were never intended. Indeed, every time they have been proposed, we have fought them. Given the widespread and widely recognized success of the welfare reform bill, we believe a change of this magnitude would be exceptionally destructive—especially when the justification for making the change is so weak.

Finally, House and Senate rules prohibit legislating appropriation bills. We all know that when there is bipartisan agreement and the committee of jurisdiction agrees with an authorization provision, we tend to overlook these rules. But we are informing you in the most direct terms that we strongly oppose this Senate action. If there is any doubt about whether this provision will be removed from the conference report, we would like to be informed at the earliest moment so we can take this issue to the House and Senate Leadership.

Thanks for your personal help and the help of your staff on this issue.

Sincerely,

E. CLAY SHAW, JR.,
Chairman, Subcommittee on Human Resources.

BILL ARCHER,
Chairman, Committee on Ways and Means.

HOUSE OF REPRESENTATIVES, COMMITTEE ON WAYS AND MEANS, SUBCOMMITTEE ON HUMAN RESOURCES
Washington, DC, October 29, 1997.

Hon. PATTY MURRAY,
U.S. Senate, Washington, DC.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATORS MURRAY AND SPECTER: I am writing to you about the Murray/Wellstone amendment concerning domestic violence to the FY 1998 Labor, HHS and Education appropriations bill.

As nearly as I can tell, every Member of Congress and virtually every American citizen abhors domestic violence. Every level of government already has strong laws, including criminal laws, designed to deal with the perpetrators of domestic violence. Moreover, in the last decade or so, the nation has made significant progress both in increasing awareness of this serious problem and inventing both civic and governmental responses to the problem.

The Murray/Wellstone amendment continues this tradition of both drawing attention to the issue of domestic violence and creating special conditions for those who have been abused. Nonetheless, there are several procedural and substantive reasons why this proposal should not be included in the Labor, HHS appropriations bill. First, the provision violates House rules against legislating on an appropriations bill. Second, it is against regular order to make such significant changes without committee input. Finally, the Ways and Means Committee has never had a hearing on the Murray/Wellstone amendment, so it is unclear whether this change is needed or what its unanticipated consequences might be.

It is also important to note that, while the Murray/Wellstone amendment would allow

states to exempt an unlimited number of victims of domestic violence from the welfare reform law's time limits and work requirements, current law already exempts 70 percent of the caseload from work requirements and 20 percent from the 5-year time limit. States already have the discretion to include any or all victims of domestic violence under these exemptions.

Each of these factors argues against including the Murray/Wellstone amendment in the bill currently before the conference committee. However, as Chairman of the Subcommittee on Human Resources of the Committee on Ways and Means, I am offering to convene a subcommittee hearing on this topic early in the next session, provided that the Murray/Wellstone amendment is withdrawn from consideration by the Labor, HHS conference committee. I would expect and look forward to your appearing as the first witnesses at this hearing.

I appreciate your consideration of this offer, and look forward to your response.

Sincerely,

E. CLAY SHAW,
Chairman.

Mr. WARNER. Mr. President, I rise to address a matter in the Labor-HHS Appropriations Conference Report that is of great interest to me. Would the distinguished chairman of the subcommittee, Mr. SPECTER, be willing to clarify a matter contained in the conference report?

Mr. SPECTER. I would be happy to respond to an inquiry from my friend from Virginia.

Mr. WARNER. Mr. President, an amendment offered by Senator KENNEDY and myself providing the Department of Education with $1.1 million to begin planning efforts for Nation's celebration of the millennium was adopted by the Senate during consideration of the Labor-HHS appropriations bill. These funds were requested by the Department of Education and were to be offset within the Department. However, it is my understanding that this language was deleted without prejudice during conference.

Mr. SPECTER. That is correct. However, $1 million in funding was included in the Department of Education's program administration budget to be utilized for national millennium activities.

Mr. WARNER. Then it would be correct to say that while the Warner-Kennedy language was deleted in conference, $1 million in funds will be available for activities associated with the millennium through the Department of Education's program administration budget?

Mr. SPECTER. That is correct.

Mr. WARNER. Mr. President, I thank the Chairman for his clarification of this matter.

Mr. LAUTENBERG. Mr. President, I want to take this opportunity to highlight language in the Senate's committee report on the fiscal year 1998 Labor-HHS bill under the National Institute of Health's [NIH] National Institute of Allergy and Infectious Diseases [NIAID]. This language notes the significant research on emerging infectious diseases being conducted at the Public Health Research Institute [PHRI]. I would like to clarify that PHRI is a component of a scientific research and collaborative venture in New Jersey known as the International Center for Public Health, located at University Heights Science Park in Newark. Furthermore, I would like to clarify that the intent of the Senate's report language is to encourage NIAID to give appropriate consideration to proposals received from the International Center for Public Health, one component of which is PHRI.

I would like to ask my colleagues Senators SPECTER and HARKIN if they agree with this interpretation of the intent of the Senate language? Furthermore, I would like to ask my colleagues if they agree that the International Center for Public Health's efforts to create a world class research and treatment complex to address infectious diseases are consistent with the committee's objectives for the Department of Health and Human Services, specifically the NIH's NIAID?

Mr. SPECTER. I am aware of this language and agree with this interpretation. I appreciate my colleague's leadership role in working with this important International Center, and I hope the NIH will give every appropriate consideration to the Center's proposals.

Mr. HARKIN. I, too, appreciate the leadership of my colleague from New Jersey on this issue, and concur with the Chairman that the NIH should give appropriate consideration to proposals from the International Center for Public Health.

Mr. DODD. Mr. President, I rise today to express my strong support for key provisions of the fiscal year 1998 Labor, Health and Human Services and Education appropriations bill.

This bill is the product of a long, often difficult, process and, like many of our legislative efforts, it is in no way perfect. However, I am particularly pleased with the $3.3 billion increase included for education.

With this legislation, students, parents and schools across the country will see broad increases in Federal spending in key areas. Funding for education technology will double. Special education funding will increase by $800 million to a historic high of nearly $5 billion. The title I program, which provides disadvantaged students with remedial tutoring in math and science, will receive $7.4 billion. This bill also provides for the continued development of voluntary national tests in fourth grade reading and eighth grade math. While there was a great deal of negotiation, discussion, and compromise on this last issue, I am pleased that the final legislation does not set up any roadblocks that will block full implementation of this important accountability initiative in schools across the country.

This bill also includes new funding for young children. Head Start funding will grow by $300 million, putting it on the path to serving 1,000,000 3- and 4-year-olds by the year 2000. The Child Care and Development Block Grant will also grow by $50 million to reach $1 billion and provide working families with additional assistance in meeting their child care needs.

On the other end of education funding, college students and their parents will receive substantial new assistance through this bill. First and most importantly, the Pell grant program will receive an increase of $1.5 billion. These funds will increase the Pell grant maximum to $3,000—the highest level in history—and will expand the Pell grant program to assist an additional 210,000 students.

This last step is particularly crucial in my view. Earlier this year, I introduced legislation to better assist students by modifying the treatment of dependent student income to ensure that needy students are not penalized for working. This appropriations bill includes this initiative and consequently will reach thousands of new students who work. This appropriations bill does not fully accomplish the goals set by my legislation, but it takes the first vital steps, which we can hopefully build upon during next year's reauthorization of the Higher Education Act.

This bill also includes legislation approved by the Labor and Human Resources Committee last month to assist students in better managing their Federal student loans. This bill, the Emergency Student Loan Consolidation Act, responds to the recent shutdown of the Federal direct loan consolidation programs by providing all student borrowers with the option of consolidating their student loans into the guaranteed loan program. There had been some concern that this bill, as it passed the Labor Committee, did not have an appropriate offset; however, additional clarifying language is included today which will allow the administration to manage this offset appropriately. We also include another emergency provision which ensures that families who receive a HOPE Scholarship will not be penalized for this scholarship in the determination of families' need for Federal student aid. It is very important to America's families and college students that these two initiatives pass this year and I am pleased that their inclusion in this bill today will make that possible.

Thus far, Mr. President, I have focused on what is in this bill in terms of education. However, I am pleased that one education provision adopted by the Senate was dropped in this final bill—the Gorton amendment. This very destructive amendment, which I have

strenuously opposed since it was first introduced, would have eliminated Federal funding for school safety, character education, vocational rehabilitation services, Indian education, teacher training and education technology. The conferees recognized that this policy was not fully considered by the Senate, as well as the appropriate committees, and took us in the wrong direction on education policy.

For all that is good in this bill, it is clearly the product of considerable compromise and is not the bill I would have written. I am particularly disturbed by the inclusion of language expanding the reach of the Hyde amendment which will further limit the rights of Federal employees in this important, personal area. However, on the whole, I believe this is a good bill for the families and children of America and will join my colleagues in supporting its passage.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Parliamentary inquiry. Does Senator SPECTER have time?

The PRESIDING OFFICER. Senator SPECTER has 4 minutes remaining.

Mr. DOMENICI. What time are we going to vote under the order?

The PRESIDING OFFICER. At 2:35.

Mr. DOMENICI. I yield myself the remaining time that Senator SPECTER has.

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

Mr. DOMENICI. I wish to applaud the subcommittee chairman, Senator SPECTER, and other members of the Appropriations subcommittee for receiving a consensus on this bill, and at the same time adhering to the important provisions of the bipartisan budget agreement.

First, let me say this bill has a very exceptional provision in it which was not part of the budget agreement but, rather, was in the Republican budget resolution, and that was to add $5 billion for special education for the next 5 years that was for educating children with disabilities. The appropriations bill includes an additional $775 million for this program, the biggest increase in the history of the program. This is the program that many States were critical of our Government for because we started it and committed a share of the payment and we never lived up to our commitment in the shared expenses of the program but insisted that our rules and regulations be followed by the States.

Now we are beginning to catch up. Senator JUDD GREGG was the leader of this from the State of New Hampshire, and certainly he will take a great deal of pride as this bill works its way to the President for signature—$5 billion over the next 5 years for educating children with disabilities.

Now, Mr. President, this bill has a lot of different provisions in it for different parts of the U.S. Government, but the education funding for the United States is almost all found in this bill. While we are not a big contributor nationally to education—that is, the National Government—there are some programs that are noteworthy that we agreed in our 22-page agreement, the historic agreement of the President and the Congress, to give high priority to, and I might say on all of these on education, with our bipartisan agreement, this committee lived up to those and funded them in every single instance, even though it meant much of their allocation of resources was being predetermined by this previous agreement.

Let me give a few examples. Regarding Head Start, the budget agreement called for an additional $2.75 billion over the next 5 years; the appropriations bill provides an additional $274 million for this program. For both these programs I have just discussed, the bill provides more funding than the President's original 1998 budget request.

Now, looking at Pell grants, which many think are very helpful in getting our young people through college—another very important bipartisan effort—the budget agreement called for an additional $8.6 billion over the next 5 years and to raise the maximum Pell grant to students from $2,700 to $3,000. True to the other measures that I have discussed, the appropriations bill provides an additional $1.4 billion for Pell grants and increased maximum grant awards from $2,700 to $3,000.

Finally, in the area of bilingual and immigrant education, particularly difficult for our States, the budget agreement called for $446 million over the next 5 years, and the appropriations bill provided $92 million of that increase in this bill.

Now, I realize many constraints were on this committee, and I want to again offer my words of thanks and congratulations for their fine work and especially for their serious effort to uphold the bipartisan budget agreement. I believe we can all be proud of these particular increases which have such broad bipartisan support. From the standpoint of the Republicans who were part of the bipartisan agreement with the President, I think today on education we are seeing some very positive results from that effort.

Mr. President, I have changes to the budget resolution aggregates and Appropriations Committee allocation which are in order, and I ask unanimous consent they be printed in the RECORD.

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

SUBMITTING CHANGES TO THE BUDGET RESOLUTION AGGREGATES AND APPROPRIATIONS COMMITTEE ALLOCATION

Mr. DOMENICI. Mr. President, section 314(b)(2) of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to adjust the appropriate budgetary aggregates and the allocation for the Appropriations Committee to reflect additional new budget authority and outlays for continuing disability reviews subject to the limitations in section 251(b)(2)(C) of the Balanced Budget and Emergency Deficit Control Act.

I hereby submit revisions to the budget authority, outlays, and deficit aggregates for fiscal year 1998 contained in sec. 101 of House Concurrent Resolution 84 in the following amounts:

	Deficit	Budget Authority	Outlays
Current aggregates	173,462,000,000	1,390,913,000,000	1,372,462,000,000
Adjustments	43,000,000	45,000,000	43,000,000
Revised aggregates	173,505,000,000	1,390,958,000,000	1,372,505,000,000

I hereby submit revisions to the 1998 Senate Appropriations Committee budget authority and outlay allocations, pursuant to sec. 302 of the Congressional Budget Act, in the following amounts:

	Budget Authority	Outlays
Current allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	256,036,000,000	283,243,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total allocation	807,848,000,000	832,383,000,000
Adjustments:		
Defense discretionary		
Nondefense discretionary	45,000,000	43,000,000
Violent crime reduction fund		
Mandatory		
Total allocation	45,000,000	43,000,000
Revised allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	256,081,000,000	283,286,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total allocation	807,893,000,000	832,426,000,000

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BOND. Mr. President, have the yeas and nays been requested?

The PRESIDING OFFICER. They have not.

Mr. BOND. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Missouri [Mr. ASHCROFT], the Senator from Colorado [Mr. CAMPBELL], the Senator from Arizona [Mr. MCCAIN], and the Senator from Kentucky [Mr. MCCONNELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Missouri [Mr. ASHCROFT] would vote "nay."

Mr. FORD. I announce that the Senator from Minnesota [Mr. WELLSTONE], is necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE], would vote "aye."

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

The result was announced—yeas 91, Nays 4, as follows:

[Rollcall Vote No. 298 Leg.]

YEAS—91

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

NAYS—4

Helms	Sessions
Inhofe	Smith (NH)

NOT VOTING—5

Ashcroft	McCain	Wellstone
Campbell	McConnell	

The conference report was agreed to.

Mr. KERREY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT REQUEST—H.R. 2676

Mr. KERREY. Mr. President, I ask unanimous consent that the Senate proceed immediately H.R. 2676, the IRS Restructuring Act of 1997, just received from the House 2 days ago, that the bill be read a third time and passed, and the motion to reconsider be laid on the table.

Mr. ROTH. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FORD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate is not in order. The Senator from Nebraska has the floor.

Mr. KERREY. Mr. President, this piece of legislation passed the House 426 to 4.

Mr. FORD. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

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

This piece of legislation will do what I think everybody in the country wants us to do; that is, to change the law, and give the newly confirmed Commissioner of the IRS the authority to run the agency.

There are lots of other changes in this piece of legislation. It passed 426 to 4 in the House. It has the support of the administration.

It should be taken up as long as we are in session. It was passed, I believe, almost unanimously once Members started to look at what is in the bill.

It would enable the Commissioner to run the IRS, put together his team, to hire and fire, to provide positive incentives to reimburse employees, and establish a public board. It provides new accountability on the legislative side. It provides a basis to evaluate complexity, and provide incentives to move to electronic filing.

Almost none of the things that I have mentioned, once people look at the legislation, are regarded as controversial today. In fact, when I point it out to people at home, they say, "My gosh, I am surprised they aren't already law."

We have heard and continue to hear complaints from our citizens about the way the IRS is run. It is time for us to give the Commissioner of the IRS the authority to manage the agency and do the things that the American people are asking us to do.

As long as we are in session, I hope again that Members on the other side will look at this bill. And I will say again: I hope they will resist. I understand the Speaker is going to still try, in spite of the negative publicity, to get somewhere between $30 and $80 million to have the IRS conduct a 14-question opinion poll about how the IRS is being operated. Our restructuring commission spent $20,000, and asked most of these questions. If the IRS was doing this on their own, if somebody discovered that they were going to take $30 to $80 million instead of doing customer service, and instead of working with taxpayers, conducting a poll asking a question, "Do you think your taxes are fair or unfair?" and then have the questionnaires mailed back to GAO—Mr. President, again the Speaker of the House has indicated that he considers a priority issue the need to appropriate somewhere between $30 and $80 million to have the IRS conduct a 14-question poll. That is considered a high priority.

I believe that if it was discovered that was in the bill, or that the IRS was doing this own their own, there would be 100 votes in this chamber against it—14 questions, $30 to $80 million. It is going to be mailed to every—

Mr. GLENN. Mr. President, could we have order in the Senate? Everybody is talking all over the place. I can't hear the Senator, and he is only a few feet away.

The PRESIDING OFFICER. The Senate will come to order. Will the Senator from Nebraska yield?

Mr. LOTT. Will the Senator yield for a brief question?

Mr. KERREY. Yes.

Mr. LOTT. Senator DASCHLE and I would like to be able to go over what we expect to be happening here the rest of the day, and tomorrow. I know that Senator ROTH wants to respond. Can we get some idea of how much time the Senator from Nebraska is going to have involved in this discussion?

Mr. KERREY. I would be pleased to agree to a UC to yield to the distinguished majority and Democratic leader, and then give the floor back to me. I would be pleased to do that, if you want to do a UC for that.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I ask unanimous consent that we be able to proceed with leader time so that we can give information to the Senators about the schedule. I know there are Senators waiting to get some information on that. If the Senator would agree to that, then we will return to his discussion to be followed by Senator ROTH.

That would be my request.

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

Mr. KERREY. The UC would do what again?

Mr. LOTT. That we interrupt at this point for us to have a colloquy here about what the schedule be as best we can tell, and then after that we return to the Senator's discussion uninterrupted with our remarks after his remarks to be followed by Senator ROTH's response to that.

Mr. KERREY. I have no objection.

Mr. LOTT. And morning business. We would turn to morning business at that point.

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

Mr. DORGAN. Reserving the right to object, is the Senator now suggesting in his unanimous-consent request that we return to morning business immediately following the discussion by Senator ROTH and Senator KERREY?

Mr. LOTT. That is what I am suggesting.

Mr. DORGAN. Then let me say, reserving the right to object, it is my intention to inquire about when the majority leader intends to allow us to debate and perhaps get some votes on amendments on fast track. We didn't object to going to morning business yesterday. I guess we have a number of people who want to offer amendments on fast track. That has been put off and put off. In fact, the regular order would be an amendment that I have pending on fast track. So if the Senator would simply exclude the morning business request and then proceed with the discussion, I would like to try to have some understanding about when we might entertain amendments on fast track.

Mr. LOTT. Mr. President, let me withdraw the last part of my unanimous-consent request so we would just be asking we would do what we are going to do on the schedule and go back to this discussion and we will talk further about that. I think the information we will give Senators will answer some of the Senator's questions.

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

THE SCHEDULE

Mr. LOTT. For the information of all Senators, there is a move to combine the three remaining appropriations bills into one bill and to send that document to the House. The Appropriations Committee intends to meet on this immediately following these announcements. Those bills are the D.C., the foreign ops and the State-Justice-Commerce bills.

It is the hope of the leadership that we could clear this bill for passage without a rollcall vote. Senator DASCHLE and I will be working on both sides of the aisle to make sure Members understand what is happening here, what is involved, and it may take some time for us to determine that. That could be as much as an hour or so. If we could get it cleared, then that would be the way we would intend to proceed on these combined appropriations bills. Senators will be notified when the next vote would occur, if one should be necessary on this.

Now, Senator DASCHLE and I were just talking. We think we should pass this by voice vote, and we will encourage Senators to allow this to happen. But if we can't get it cleared, one option we would have would be to have this vote occur, and I would need to consult with Chairman STEVENS further before we do it, but one option, if we can't get it cleared in a reasonable period of time, would be to perhaps have a vote on that issue tomorrow around 1:30 or so. At this point we just can't tell you with absolute certainty how we are going to proceed on that bill. Again, we will pursue the voice vote, and if we can't get that done, then we will notify you when the actual vote would occur.

Would the Senator like to respond to that before we go to these other issues?

Mr. DASCHLE. I concur completely with what the majority leader has just indicated. I think it is our intent to see if we might be able to proceed with an expectation that any additional rollcall votes would occur tomorrow. We can't give that assurance completely yet today. I want to work with the majority leader. If additional rollcalls are required, we will give plenty of notice to all Senators. But our hope is that we can accommodate Senators who have schedules.

Mr. LOTT. One option, if the Senator will yield back so that I can comment, Senator STEVENS even suggested we might want to have another vote later on this afternoon or later on at 5, 6 or 7 o'clock. But we will try to avoid that, and when we can give you some further confirmation on when the next recorded vote will occur, we will let you know—hopefully within an hour.

Now, I might also note that I am being told that an agreement has been reached on the FDA reform conference report, that papers are being done now, and hopefully Senator JEFFORDS is working with all the interested parties on that. Within an hour or so, we hope we could get those papers ready and get that done on a voice vote.

The Senator is now saying we may have to have a recorded vote. If we do, then we might have to look at doing that later on or maybe even tomorrow. So we will have to consult on that.

One other one we may try to do is adoption and foster care. We understand perhaps there has been agreement on that legislation in a bipartisan way. We are trying to clear that.

So that answers part of Senator DORGAN's inquiry. We have a couple of issues that we may have ready to go here pretty quickly. That is why we would like to have the option to discuss with the Senator and others moving one or the other of these bills or the conference report.

Ms. MOSELEY-BRAUN. Will the majority leader yield for a question?

Mr. LOTT. Other possible items for consideration are the Eximbank conference report, and Senator DASCHLE and I are working on the Executive Calendar nominations.

I congratulate everybody for their cooperation on the Labor-HHS-Education appropriations bill that just passed. The conference report that we have been working on for weeks and weeks and weeks passed 91 to 4. It just shows what can happen when we finally get around to taking a stand and getting a vote.

I would be glad to yield to the Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Senator.

With regard to the majority leader's request for rolling all the remaining appropriations bills into one vehicle, as the majority leader may be aware, I had not wanted to object, but I reserve my right to object with regard to the immigration issue pertaining to Haitians. The D.C. appropriations bill provides for special status or relief for Guatemalans, Nicaraguans, Salvadorans and Cubans and leaves out the Haitians.

Certainly, I cannot imagine that is a result we would want to see, and I urge the majority leader and other negotiators to see that that real injustice is corrected as they discuss the final package for that legislation.

Again, I, just like everyone else in this Chamber, would love to have this go out on a unanimous rollcall vote or unanimous voice vote, but at the same time the gravity of the injustice in that situation is just so profound I would have to lodge an objection if that does not get done.

Mr. LOTT. I appreciate the Senator's comments. She has been discussing it with Senators on both sides of the aisle. I just saw her talking with the chairman of the Appropriations Committee at lunch. So I know she is going to find a way to address this issue in a way that she would be comfortable with, and we will continue to work with her on that.

Does the minority leader wish to say anything more?

Mr. LOTT. Mr. President, it would be my intent at this time to put in a request for morning business until the hour of 4 p.m. so that we can talk about these various issues and see where we may go.

Mr. DASCHLE. Mr. President, if I could just suggest, the majority leader has noted that Senator KERREY would like to speak. If a unanimous consent request is propounded for morning

business, I would like it—I do know Senator DORGAN has noted his desire to offer amendments, but if morning business were to occur, I would suggest perhaps it occur after Senator KERREY's remarks.

MORNING BUSINESS

Mr. LOTT. I believe we already had an agreement by unanimous consent we would go back to Senator KERREY, followed by Senator ROTH. Others may want to comment, but I would like to ask now there be a period of morning business until the hour of 4 o'clock and Senators be limited to speak for 10 minutes each.

Mr. DORGAN. Reserving the right to object, Mr. President, let me again inquire as to when the majority leader expects we might be able to entertain some amendments that we might have finally considered. I know that I was able to offer an amendment. I also know that Senator INHOFE offered an amendment to the fast track bill. He may have other amendments; I do not know. I know I have amendments and Senator HOLLINGS and some others have amendments they want to have considered. I have not objected to moving other business that is important to the Senate. I think it is important to get this business done. I have not objected to that. But to put us into morning business is simply a suggestion that we don't want to go to regular order, and the regular order is fast track. We have amendments, one pending, others wanting to be offered.

So the majority leader, I assume, brought fast track to the floor of the Senate because he wanted us to move and proceed to consider it. When he did that, I had hoped we would be able to offer amendments. If we keep allowing the majority leader simply to put us into morning business with intervals of other business he decides he wants to pursue, we will never get to dispose of amendments on fast track. I don't think that is an appropriate way to deal with fast track.

Mr. LOTT. Mr. President, if I could respond to the Senator, I would like him to allow us to get this time now and give us an opportunity to talk with him and others. I should note that when we go back, of course, to this issue, I believe the pending amendment is the Inhofe amendment. I presume there would be other amendments in relation to that issue, maybe a second-degree amendment. I think maybe the Senator would want to talk to his leadership and give me a chance to talk to Senator INHOFE as to how we would proceed on that, and we could use this next 50 minutes to do that.

Mr. DORGAN. Well, I would say the regular order would be my amendment, and I won't object to this request, but I will at some point in the future if the Senator wants to continue to do this, because what this will mean is the majority leader will bring in the body of work he wants to have done here.

Mr. LOTT. Is that the commission amendment?

Mr. DORGAN. Yes.

Mr. LOTT. I believe the Senator is right, that is the pending business, and perhaps we could do that.

Mr. DORGAN. Perhaps the majority leader would accept that. I don't expect that will be very controversial. At least we could accept one amendment and then proceed to have another amendment laid down. I will not object at this moment, but I say that, if we continue to do this, the next time we want to go to morning business I am suggesting there be an objection and we go to regular order and deal with the fast-track bill.

Mr. LOTT. Maybe we can have morning business until we do it all in one final voice vote, everything left.

No, Mr. President, if the Senator would not object at this point, we could have the pending debate, and we will talk with the Senator during the interim.

Mr. DORGAN. I will not object, and to the extent that all of the things I mentioned are involved in the voice vote the Senator will propound later, I would be happy to accommodate that.

Mr. FORD. Reserving the right to object, Mr. President, what is the unanimous-consent request before the Chair?

Mr. NICKLES. Mr. President, could we have order?

Mr. LOTT. I don't know if I have the floor, but I yield the floor, Mr. President.

The PRESIDING OFFICER. The order of business is that the Senator from Nebraska be recognized, followed by the Senator from Delaware. Then we move to a period of morning business until 4 o'clock.

Mr. FORD. I have no objection.

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

IRS RESTRUCTURING ACT OF 1997

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

Mr. KERREY. Sure.

Mr. REID. Will the Senator restate the unanimous-consent request he had that was objected to?

Mr. KERREY. I asked the Senate to grant unanimous consent to proceed immediately to H.R. 2676, which is the IRS Restructuring Act of 1997 that was received from the House on Wednesday, that the bill be read a third time and passed and the motion to reconsider be laid on the table.

Mr. REID. I ask my friend, is that the same bill that passed the House of Representatives by a vote of 424 to 4?

Mr. KERREY. That is correct. Actually, I believe it is 426 to 4.

Mr. REID. Yes, 426 to 4. I ask my friend from Nebraska, is that the bill that created a new citizens oversight board?

Mr. KERREY. That is correct. It creates a public board that would for the first time have oversight of the IRS, have the power to develop a strategic plan, and make budget recommendations to the Secretary of the Treasury.

Mrs. BOXER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. REID. I ask my friend, is this the same bill that when the IRS is proven to have done something wrong, the person who is wronged can collect attorney's fees from the Internal Revenue Service?

Mr. KERREY. That is correct. A taxpayer under this legislation, under this new law, would have the power to collect attorney's fees and to collect up to $100,000 if the IRS was held to be negligent.

Mr. REID. Is it true that this also creates a toll-free number for people to register complaints against the IRS?

Mr. KERREY. That is correct. It does create a toll-free number and powerful new incentives to move to electronic filing.

Mr. REID. I ask my friend, is this the same bill that creates a taxpayers' advocate office?

Mr. KERREY. That is correct. A new public board, in fact, would make the hiring decision and create an independent taxpayer advocate. The current advocate, as you know, is an employee of the IRS and, as a consequence, although he has done a good job, in many ways has a conflict of interest because his performance is being judged by IRS managers.

Mr. REID. I also ask my friend, is it also true in tax cases that the burden of proof shifts? As I understand—and I am asking this question of my friend from Nebraska—it is my impression now that the burden of proof to prove yourself, in effect, innocent is upon the taxpayer. Is that the way the law is now?

Mr. KERREY. That is correct.

Mr. REID. Would this law change that?

Mr. KERREY. This law would change it when it reached the tax court. In those cases where the taxpayer reached the tax court, the presumption would not be on the taxpayers to prove that they are innocent.

Mr. REID. I ask my friend also, during the time that the Finance Committee held their hearing and during the time that the commission met, is it true that there was evidence which came up to show that the IRS did have quotas for advancing people in the IRS hierarchy? And is it true that was against the law? It is against the law.

Mr. KERREY. That is true. In fact, the 3 days of hearings that the Senate Finance Committee held under the leadership of Chairman ROTH clearly

exposed incidents out there in violation of the law where audits are done, where collection efforts are made based on quotas, based upon goals to try to go out and get individuals, regardless of whether or not there was additional tax actually being owed. In addition, I would say to my friend from Nevada, the current law allows the IRS to keep confidential and private all audit criteria.

Citizens may be surprised to know this, but if you ask the IRS today, "What are your audit criteria? On what basis do you evaluate the taxpayers of Iowa or Delaware or Nebraska or Vermont or Mississippi? How do you evaluate your audits? How do you decide on what basis you are going to proceed on an audit?" the IRS will say to you, "You don't have a right to know. We won't disclose that information." The only available information has been obtained through a woman at the University of Syracuse through a Freedom of Information Act request for that information. If you look at audit data she has collected, you see broad variations, broad variations from State to State. In one State there will be very high percentages of audits; in another, very low percentages of audits. It is very inconsistent and subjective. Under this law, the audit standards and the criteria for audit would have to be made public. It would, as well, create a mechanism for expedited answers of Freedom of Information Act requests.

Mr. REID. I say to my friend, if we do not pass this legislation, now, early in November, until we come back late in January, it is my understanding there will be about 1.5 million Americans who will have dealings with the Internal Revenue Service where they are being questioned as to whether or not their tax burden is appropriate. Could we avoid that for at least a significant number of these people if we passed this legislation?

Mr. KERREY. The answer is absolutely yes. Indeed, I said the House passed this bill 426 to 4 on Wednesday. I came to the floor and asked unanimous consent to take it up on Thursday, did so again on Friday, and did so again on Saturday. I say to those who are wondering what is the impact of this, what is the impact of delay, the Senator is exactly right. The Senator is exactly right. There are 135,000 notices every single day. Every single day, 135,000 notices are sent to the taxpayers of the United States of America. What do those notices say? They say: You owe us more money.

Talk to somebody—I urge my colleagues, particularly on the other side of the aisle—talk to taxpayers who get one of these notices. Ask them how much power they have. Ask them how they feel when they receive one of these letters. Ask them what kind of access they have to the IRS under the current law. And they will tell you it's a terrifying moment when you receive that letter. You either pay it or you know you are going to spend an awful lot of money and an awful lot of time to dispute the dollar amount that the IRS says that you owe.

In addition, every single day, 250,000 Americans call the IRS. A quarter of them can't even get through. And of the ones that get through, 25 percent get the wrong answer. It is one of the reasons, when we did our poll——

Mr. LEAHY. May we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KERREY. Unlike this remarkable poll, and I have to say I hope my colleagues on the other side of the aisle will object if Speaker GINGRICH tries to allocate somewhere between $30 and $100 million of taxpayer money for a 14-question poll, among which questions are: Do you think taxes are fair or unfair?

Whatever you think about this piece of legislation—do it next year or do it now, on behalf of the taxpayers—I will guarantee if the IRS was spending $100 million which could go to taxpayer service, which could go to lots of other things, to do a 14-question poll mailed out to 80 million taxpayers, made available in every single post office, mailed out to every single provider, and then, guess what, then you mail it back, the taxpayer does, to the General Accounting Office to be compiled—you are not going to have 250,000 phone calls every single day. You are going to have another 100,000 phone calls from taxpayers who are going to say, "What the heck does this mean?" They are going to call their service centers.

So, while we are all sitting here saying we want the IRS to operate better, we have under consideration a poll that is going to make it more difficult for the IRS to do their job because you are going to have another 100,000 phone calls or so coming into the IRS office by confused taxpayers wondering what this is all about.

Between the time that this piece of legislation was passed by the House—and it is right down here at desk. All we have to do is ask unanimous consent to take this up. All the Republicans have to do is not object, allow the bill to be taken up. There have been 270,000 citizens between the time it got to that desk and right now—270,000 citizens got notices in the mail that they owe taxes. And another half a million who have called the IRS, trying to get a question answered.

Mr. REID. I ask another question to my friend. Isn't it true that the employees of the Internal Revenue Service, these people who work very hard every day—not the bosses, but the employees of the Internal Revenue Service—favor this legislation?

Mr. KERREY. Yes. In fact, not only does the National Federation of Independent Businessmen support this legislation, not only do most of the providers organizations that help taxpayers fill out their forms, but the head of the National Treasury Employees Union supports this legislation and has indicated that he wants to get it passed in a hurry.

Former Secretarys of Treasury Baker and Brady and current Secretary of Treasury Rubin support this legislation. The previous IRS Commissioner, Peggy Richardson, supports this legislation, as does previous Commissioner Fred Goldberg, who is a member of the Commission.

You are absolutely right. The employees themselves are saying give the Commissioner the authority. When Mr. Rossotti came before the Finance Committee, everybody was very impressed that the President would send up an individual who had experience in the private sector. Mr. Rossotti said, "I am going to manage this agency."

I said to him, "You know, Mr. Rossotti, you are going to get over there and you will have a lot of responsibility but you don't have any authority. You can't even bring on the senior management, you can't provide the private-sector incentives you are describing out there. You have six legislative committees, three in the House and three in the Senate, with jurisdiction over you. You get through this next filing season with no problems and life is going to be good for you, but just have a little glitch between now and then and you are going to find out people are going to call you up in a hurry and blame you for all the things that you have no authority to do."

So I hope my colleagues on the other side will look at this legislation. The chairman has indicated he has objections, he would like to add some additional things. Most of the things he wants to add I support. I would like to get it done. He wants to hold hearings next year and do it. But these changes, for gosh shakes—if you look at the law as passed by the House, right down here at the desk, you scratch your head and say: For gosh sakes, that's common sense. We ought to already allow it.

So, on behalf of the taxpayers who get notices and will be calling the IRS every single day between now and the next year, I hope, between now and the next days, we can pass it. We could conference this thing in record time.

Mr. REID. It is my understanding that everyone on this side of the aisle, all Democrats, support this legislation moving forward immediately; is that true?

Mr. KERREY. Not only is that true but my guess is, if it were to be taken up, if no objection were placed against this unanimous-consent request, my guess is on final passage you would get 100 votes.

Mr. REID. So it's fair to say that virtually everybody in this Chamber,

Democrats and Republicans, support this legislation?

Mr. KERREY. I think it is fair to say that. There are some who will say I want the board to have more authority, a few odds and ends done, but I don't think anybody in the Chamber would object to changing the law to give the Commissioner the authority to manage this agency or do all the other things the distinguished Senator from Nevada has identified on behalf of taxpayers, like providing a public statement of the basis of audits—I don't think anybody could object to doing that. And anybody looking at it, I think, would say, "Gee, that is not going to make things worse. That's going to make things an awful lot better for those taxpayers getting notices and those taxpayers calling the IRS."

Mr. REID. I finally say to my friend from Nebraska that this legislation is good legislation. I am happy to be an original cosponsor of it. It is something the American people want and this Senate should deliver it. The House has already passed this legislation. Would the Senator agree?

Mr. KERREY. I completely agree with the distinguished Senator from Nevada on that point. Again, as long as we are in session, I intend to continue to come to the floor and ask unanimous consent to take this legislation up. Not because I think it is controversial, but because I think it is not controversial. We are hammering out in backrooms all over this Capitol all kinds of deals to try to get fast track, to try to get things that are extremely controversial. This one is not. It has extremely broad support, a large margin of victory when it passed: 426 to 4 in the House. It is going to conference very easily. I have been down here three times. I will continue to come down here and ask unanimous consent to proceed immediately to consideration of this legislation.

Mr. BUMPERS. Will the Senator yield for a couple of comments and then a question?

Mr. KERREY. I will be happy to.

Mr. BUMPERS. First of all, when I was Governor of my State, one of the first orders I issued was that any employee of the Arkansas Revenue Department would be summarily fired if it was found that that employee, without provocation, was rude to a taxpayer. And within 3 weeks we fired one employee, and it had an unbelievable impact on the conduct of everybody else. We had very little trouble out of the revenue department during my 4 years as Governor.

No. 2, insofar as the Speaker's proposal to spend a minimum of $30 million doing a survey, sending out a questionnaire to the taxpayers of this country asking how do you feel about your taxes and how do you feel about the IRS, I can save him that $30 million. I already know the answer. Every Member of this body knows the answer to that question. People think they are overtaxed and they think the IRS is filled with a bunch of arrogant bureaucrats whose whole purpose in life is to make people miserable.

Finally, my question concerns this matter of attorney fees. Could you tell us what the criteria is in tax court? Let me walk through a case.

Let's say the IRS sends you a notice and says we have determined in looking over your tax return that you owe us an additional $5,000, and here is why. And you write back and say I disagree. At that point, the burden is on you to prove that you don't owe $5,000, and under this bill the burden will remain on you to prove that you don't owe $5,000.

If the IRS feels that they have won the argument, that you in fact do owe $5,000, and they refuse to relent, the normal method for you to challenge that is for you to pay the $5,000 and then go to tax court to recover it. Is that a fair statement?

Mr. KERREY. That is correct.

Mr. REID. That's true.

Mr. BUMPERS. My question is, if you do recover the $5,000 in tax court, are you automatically entitled to attorney's fees under this bill?

Mr. KERREY. You would be entitled to attorney's fees under this bill, yes.

Mr. BUMPERS. Let me ask you this question. Let's say we have a criminal case where the IRS charges you with tax evasion, that is, deliberately defrauding the Federal Government by evading or cheating on your income tax return. Then the U.S. attorney's office will indict you and haul you into court for a criminal trial.

At that point the IRS, of course, does have to sustain the burden, is that not correct?

Mr. KERREY. That is correct.

Mr. BUMPERS. Now, assuming that the IRS does not get a conviction in that case, then is the taxpayer entitled to attorney fees?

Mr. KERREY. I actually do not have an answer to your question, as to whether or not that is the case.

Mr. BUMPERS. I don't know the answer either. I think under existing law, and certainly under the Hyde amendment, you would be entitled to attorney fees if you were—I forget the exact language, something to the effect that if you have been frivolously or vexatiously charged and tried, you are entitled to attorney fees. But there is an existing statute which provides attorney fees if the court decides that this case should never have been brought, and several other criteria.

But I just wondered if this bill changed any of that regarding criminal trials.

Mr. KERREY. I don't have an answer, specifically, to your question. I can say that one of the things that we have done with this legislation is to make the taxpayer advocate more independent. Very often that is what is missing. Let's say that you are one of the 135,000, or you are one of the 270,000 since we have asked for this bill to be taken up, who get a notice and you disagree with that notice. There is a dispute resolution officer who works for the taxpayer advocate that you can call up. You can say, "Look, I have a dispute here. I think it is unfair. I would like to come in and talk to you." There is a mechanism under the Taxpayer Bill of Rights II to do that. And what we do is make that taxpayer advocate even more independent.

Very often what happens is the law requires the revenue agent to collect, even though the revenue agents say this doesn't make any sense. There is no mechanism that enables the revenue agent to be overruled. What we do is, by giving that taxpayer advocate more independence and more power and more authority to overrule, I think we are going to reduce substantially the number of cases where a person looks at it and says, "My gosh, why would you spend a quarter of a million dollars to collect 100 bucks, or something like that?" These are cases that come all the time into our offices, and under the current law we are simply not able to do anything.

Mr. BUMPERS. Senator, if I could just make one last comment. This is not in defense of the IRS, just simply an observation. The truth of the matter is a lot of people resent the taxes they have to pay. That is a given. My salary is paid by the taxpayers, but every April 15 I get a little vexed, just like every other taxpayer does, about what I have to pay. But having said that, I think it would be remiss if we didn't point out that we lose $100 billion a year in taxes to the Federal Treasury by people who defraud the system, the underground economy.

Consider the fact that 1997, this year, the people of this country will pay about $650 billion in personal income tax.

The corporate tax, as you know, yields much less than that. But just take the personal income tax. If we are losing $100 billion from people who absolutely refuse to live by the law—and that is who IRS ought to be after, of course—that is one of the reasons the rest of us have to pay more, because a lot of people don't.

I just wanted to make that point and to say I think the IRS generally tries its best to collect the appropriate amount of taxes. The thing that gets all of us in more trouble than anything else is when honest, hard-working people are pilloried by a bureaucratic agent or auditor from the IRS. The agent may be right. It is usually not so much a question of whether the agent is right or not; it is their conduct that is offensive to people, and that is one of the reasons their public relations is so poor.

Mr. KERREY. I appreciate both the Senators' questions and statements. As a former Governor, I have commented right from the beginning that he could fire anybody who was a discourteous employee.

Let me say again, for the record, we have a remarkable system of tax collection in the United States that is largely voluntary. One of the disturbing things about the current trend is we have gone from 93 percent voluntary compliance down to 83 percent in the last 30 years. That means 83 percent of our taxpayers voluntarily comply, and they are paying higher taxes as a result of the 17 percent who don't.

There is a need to make certain there is a sufficient amount of law enforcement out there. The dilemma, though, is the current law, and I underscore this because we are a nation of laws, after all. The IRS is not a corporation. It is created by law, and it operates under law. Nobody doubts if their workload went up as a result of the balanced budget agreement we just passed. There is significant new complexity in there of, what, four or five different rates you are paying for capital gains.

Mr. BUMPERS. I think an additional 800 pages in the code.

Mr. KERREY. An additional 800 pages in the code. Lord knows, this is good news to them compared to some years we don't pass a tax bill until about now, until they are almost always into their filing season.

What we have to understand, what citizens need to understand is the IRS is managed according to law. So title I of this bill that is sitting down here at this desk passed 421 to 4 in the House. Title I of this bill deals with management and accountability. Who could possibly object to passing a piece of legislation that would give the Commissioner of the IRS the management authority to do what you just described?

If the President of the United States calls up the Tax Commissioner, who he just appointed and we just confirmed, and says, "I just heard Senator BUMPERS on the floor say something really pretty smart, unusual. He said that when he was Governor of Arkansas, he told his revenue commissioner that anybody who is discourteous is going to be fired. I want you to do that."

Do you know what Mr. Rossotti would say? "That is a great idea, Mr. President, but the law doesn't give me that authority. I can't even hire my senior people. I can't manage this agency." The law doesn't give him that authority. It is not a corporation, it is a creature of law, and we have written this law so as to confine and make it difficult for the Commissioner to do the job.

You would think the question the Senator from Nevada asked earlier, if he is going to have this new authority to hire and fire, certainly the employees must be against that. Absolutely not. The Treasury Employees Union supports this legislation. Why? They know the Commissioner can't manage the agency. They know the new provisions not only to manage the agency but to provide accountability and oversight, both with a new public board and with a restructured legislative oversight process, is necessary, is needed, in order to get shared consensus on what the strategic plan is going to be.

That is what has been failing over the years. That is what has been missing over the years. By the way, I have only been here 8 years, but I have never heard a Commissioner get up during the middle of a tax debate and say, "Gee, Mr. President, that's a great tax idea you have," or "Senator" whoever, "that's a great tax idea you have, but this is what it is going to cost the taxpayer to comply."

The taxpayers already spend $200 billion a year—$200 billion a year—just to fill out the forms. You say everybody in this body ought to be for simplification. I think the tax bill passed 90-some to 8. I know I voted for it. I think the distinguished Senator from Arkansas did not, so he can reclaim the floor and tell me what a fool I was, talking about simplification out of one side of my mouth and out of the other side of my mouth I voted for something that creates complexity.

For the first time, we give the Commissioner the authority to be at the table when tax law is written for the taxpayer and say, "This is what it is going to cost the taxpayer, this is what they are going to have to do to comply, Mr. President, or Mr. Chairman, of whatever."

We would give under this law the Commissioner not just the authority to manage, not just a restructured public board that would give the citizens a view of what is going on inside this agency and restructuring Congress so there is more consistent oversight.

The wonderful hearings the Finance Committee had, I was shocked to find out that was the first time in 20 years where the full committee had hearings of that kind. Some people criticize us saying we bash the IRS. I guess once every 20 years is all we are supposed to do.

The law is what dictates what the IRS can and cannot do. The law does. We can't bash the employees, the managers of the IRS on the one hand while on the other hand we refuse to take up a piece of legislation that would give the Commissioner the authority to do everything that we say we want the Commissioner to do.

So, as I said, it has been since Wednesday that the bill got down there. I have done this now three times on 3 straight days, and in that time, a quarter of a million taxpayers have received notices in the mail: "Dear Mr. and Mrs. Smith, you owe us X amount of dollars." Another half a million people have called up their IRS service center or their IRS office and tried to get a question answered and haven't been able to do so.

Again, I underscore, I hope my colleagues on both sides of the aisle understand that the Speaker may be successful in getting $30 million, up to $100 million of taxpayer money allocated to do a 14-question poll. If you look at these questions, you would say, "My gosh, we can answer those questions without spending $30 to $80 million of taxpayers' money to get answers that are so obvious it is embarrassing to even ask them, even if it were for free."

Mr. LEAHY. Will the Senator yield without losing his right to floor?

Mr. KERREY. I will be pleased to yield.

Mr. LEAHY. Mr. President, is the Senator aware that you can do a nationwide poll within 3 to 4 percentage points for under $50,000? Is that not correct?

Mr. KERREY. Indeed, the restructuring commission did a poll for $20,000.

Mr. LEAHY. Mr. President, I wonder if the Senator is aware that we seem to go off on things that are not very urgent, whereas we don't take time for things that are urgent.

For example, the nomination of Bill Lann Lee. All the members of the Judiciary Committee on this side of the aisle have asked the chairman for another hearing on Bill Lann Lee, because it is obvious from the debate we had on Thursday in the committee that misstatements of facts have been used, distortion of his record have been used. We find that people supposedly opposing Bill Lann Lee, in fact, support him. We find the cases in which he was involved were misconstrued.

So I just mention this, if we want to do something worthwhile, then I hope the Judiciary Committee and the chairman will stop refusing to have another hearing and will listen to all of us who have asked for another hearing out of fairness to a man who has been much maligned.

I thank the distinguished Senator from Nebraska and yield back to him to answer the question.

Mr. KERREY. What was the question again?

Mr. President, I hope that in the next day or two, while we are deliberating in this world's greatest deliberative body, resolving all the terrible conflicts we have on a variety of things, I hope we are able to get consideration of this legislation. I believe it will pass almost unanimously, if not unanimously, in the Senate. I believe it could be conferenced very, very quickly with the House and be on to the President.

I think all of us, once it is passed and signed by the President, will feel glad

that we changed the law to give the Commissioner the kind of authority that the Commissioner is going to need to manage this rather difficult and troubled agency.

I thank, again, my very patient chairman for waiting for this opportunity to respond. I appreciate, again, his leadership in conducting 3 days of public hearings, piercing the 6103 veil to be able to see inside this agency even further than what the restructuring commission did. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, this is the third day in a row that the Senator from Nebraska, Senator KERREY, has asked for a unanimous-consent agreement to pass the House IRS restructuring bill. And for the third day in a row, I have, again, objected.

Moving this bill today by unanimous consent is the politically expedient thing to do. It is the easy thing to do, and if we approve this legislation now, we could all go home and try to convince our constituents that we solved all the problems with the IRS and they wouldn't have to worry again.

But this would not be true. This bill, while it is a good start, does not address the very egregious problems that the Senate Finance Committee exposed in our September hearings. The most significant reform in this bill is the creation of an oversight board. But, Mr. President, the board does not have the power to look at audit and collection issues where the most help is needed for the taxpayer. It falls short on many accountability issues that were raised at our hearings, basic issues such as requiring employees to sign correspondence to taxpayers. It does not alter the power that agents have to abusively slap liens and levies on taxpayers. It does not ensure taxpayers their due-process rights.

Those are only a few of the missing links. The restructuring commission and the Ways and Means Committee did good work, but what they have done is only a beginning. We need to go further.

Some have said let's pass this now and then come back and do more next year. Well, Mr. President, we know where that will lead. If we pass this reform legislation, legislation that even Senator KERREY admits has important omissions, those who are not anxious to pass it will rise up and cry that we have already passed reform legislation. When we attempt to strengthen it, they will say that we need no further reform or that we must give this effort a few years to see that it works. The truth is, we will basically get only one real chance to reform the IRS, and for the taxpayer, we must get it right. I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

Mr. KERREY. I want to respond, and then I will get out of here.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, again, I want to praise the chairman of the Finance Committee for the hearings and the chance given to this. I respectfully disagree. I don't think we will just get one bite of the apple. I believe Majority Leader LOTT and the Speaker are committed to going further. Both of them have talked especially about the need to simplify the Tax Code. I would be surprised if either one of them would object to some of the additional things that Chairman ROTH has indicated that he wants to address.

I just say very respectfully on behalf of the taxpayers who are not going to have an agency that is managed well, this is not just a public board. Title I does change the way that oversight occurs, both on the legislative and on the executive side. There is no question that that change is important. But I believe that the most important piece of this legislation is giving the Commissioner the authority under the law to manage the agency. That is the most important thing that is missing today.

Second, I think it is not a small item to say that for the first time, the American people will have an agency that will be required under the law to provide them the audit standards. Why do you audit a certain way in Nebraska, a certain way in Iowa and a certain way in all the other States?

What is the basis of the audits?

Today, the IRS, under the law—they don't withhold it because they are being ornery or don't withhold it because they just don't want to give it to us. The law says: Do not give it. The law says: Do not provide it publicly.

It is not a small item to provide to the taxpayers public information, to give them a window on why audits are done, and what is the standard to which audits occur. It is not a small item to shift to the taxpayer additional power and give the taxpayer advocate the kind of independence that the taxpayers themselves have asked for over and over and over.

We had 12 days of public hearings. The congressionally mandated restructuring commission that Congressman PORTMAN and I chaired, during that we heard over and over and over that the No. 1 problem is the law—the law in regards to complexity, the law in regards to power, the law in regards to oversight, the law in regards to management.

This process started clear back in 1995 when we discovered that through a GAO audit that nearly $3.5 billion of the taxpayer money had been wasted on a taxpayer modernization system. Why? Because the IRS and the Congress don't have a mechanism where they can reach consensus on a strategic plan. And without a strategic plan, no matter what you did with technology, you are apt to spend money incorrectly.

So this process began over 2 years ago and has deliberated that entire time. And I have to say, I am not going to go home—if this piece of legislation were to be enacted—and I intend to come down again and ask unanimous consent so that it can be taken up. It is lying right there at the table. It is not one of these controversial things that we are debating, trying to get done, so we can get out of here. This one is going to pass with a big margin.

I don't have to go home and say it solves every problem. I don't have go home and say we have solved every education problem because we just passed Labor-HHS. We know there is still work to be done next year. We know there is still work to be done in the defense authorization bill. We didn't hold it up because we said, "Gosh, we've got to solve every problem before we enact this legislation." We understand—I hope we understand that our best course is to try to make incremental progress, do those things where Republicans and Democrats know that change in the law will improve the operation of some agency of Government.

Ms. MOSELEY-BRAUN. Will the Senator yield for a question?

Mr. KERREY. I will be pleased to.

Ms. MOSELEY-BRAUN. Is the Senator aware of any voices in opposition or people who are not anxious to pass this bill? It passed overwhelmingly in the House. And it is my understanding and impression from this Chamber that just about everybody wants to have an opportunity to pass this legislation or to vote on IRS reform sooner rather than later.

Is the Senator aware of any group or organizations or individuals who have reached out and said, "No, no, we don't want to reform the IRS"?

Mr. KERREY. No. Indeed, it is endorsed by almost every organization outside of the Government that has contact with the IRS. The National Federation of Independent Businessmen supports this legislation, as well as the National Treasury Employees Union supports this legislation. The accountants support the legislation. The enrolled agents support the legislation. I mean, groups that deal daily with the IRS are asking the Congress to change the law.

There have been objections raised that it doesn't do something in addition; but, again, we can do all of that. We do not have to get every single thing done in order to change the law if we know that the change in the law will improve the operational efficiency of some agency of Government, especially one that sends out 135,000 notices

every single day to taxpayers that they owe additional money.

Ms. MOSELEY-BRAUN. Am I correct in my impression that even the Treasury Department has endorsed or embraced the recommendations of the Commission that are represented in this IRS restructuring bill?

Mr. KERREY. The Treasury Department and the administration support the bill that is lying right down there, that if there was no objection we would take up immediately here and pass in the Senate as well. Not only does the Treasury support it, but former Treasury Secretary Brady, former Treasury Secretary Baker, former Commissioner Richardson, and former Commissioner Goldberg.

I mean, everybody that has looked at the law, they can say it could go further, do additional things, but nobody has lodged an argument that says the changes in this law would not stand a very good chance of improving the operational efficiency experienced by taxpayers who receive notices every day and by taxpayers who have questions and call up the IRS and try to get those questions answered.

Ms. MOSELEY-BRAUN. We have on average in my State of Illinois, 33,457 tax returns that will be audited in the next year. I know there are 30,000 such audits pending in my home State. And it just seems to me that to the extent that this legislation provides some relief to taxpayers, and justice to taxpayers, that the delay that is being suggested here in passing the legislation denies them that justice. And that expression "justice delayed is justice denied"—that we really do put in jeopardy the rights that we, I think, all recognize that people ought to have as citizens of this great country.

Mr. KERREY. Right.

Ms. MOSELEY-BRAUN. In relation to what is supposed to be a service for Internal Revenue, that justice that is due those taxpayers may well be denied by virtue of the delay in calling up this legislation.

Mr. KERREY. I could not agree with you more. There are actually 800,000 notices every single year of audits—excuse me, every month that goes out to——

Ms. MOSELEY-BRAUN. That is 800,000?

Mr. KERREY. Yes, 800,000 a month of contacts to the IRS or audits or matters that are almost as serious as an audit that goes out to some taxpayers. There is no question, if we take this bill up that is lying right down there now that passed 421–4—probably pass here 100–0—there is no question that all of those taxpayers would have more power.

They may still not like the outcome. They may have to pay more taxes, and not like it, but they would have a lot more power, a much more efficient agency, and a much more happy ending as a consequence.

There are things that the IRS does that they ought not be required under the law to do, that nobody says they ought to be doing. Though I say again, the chairman of the Finance Committee, Senator ROTH of Delaware, has quite accurately said, there are additional things we could do. But, for gosh sakes, given the burden the taxpayers have, given the difficulty they have, and given the broad support, after 12 public hearings, and after thousands of meetings with IRS employees and provider groups in the private sector, private sector companies that are offering competitive services, other nations' governments that have had similar problems that have gone through the similar process of trying to improve the operation of their tax collection agency—this is not something that was put together in a couple weeks' time in response to a problem identified.

This has been something that has been debated well over a year and has broad bipartisan support and would unquestionably, for every taxpayer out there that might receive an audit or might receive a collection notice or might have to call the IRS and get a question answered—every single one of them would benefit if we could just pass this law.

Ms. MOSELEY-BRAUN. I serve, along with the Senator from Nebraska and the Senator from Florida, on the Finance Committee. I was just delighted that the chairman convened the hearings on the IRS abuses. We heard any number of horror stories in those hearings. It is my understanding that under this legislation a taxpayer who had gone through an audit or set of investigations or prosecutions, that came out on the other end of the process absolved of any error of even wrongdoing, that that taxpayer would be able to, at least, recoup not all but some of the expenses associated with defending the integrity of their voluntary compliance with the Tax Code.

Mr. KERREY. That is correct. They would get their attorney fees paid up; and if there was negligence, up to $100,000. And we establish assistance centers out there for the first time for taxpayers who are struggling to get questions answered.

Ms. MOSELEY-BRAUN. For those taxpayers where it might be just a mistake—their Social Security number got mixed up or the name was not right, whatever—those assistance centers would then provide them with an opportunity again to have a better relationship with the service that the IRS is supposed to provide.

Mr. KERREY. That is correct. One of the things that this law does in title II is deal with a new trend that all of us understand, which is electronic commerce. We see a lot of electronic commerce developing out there in the private sector. The IRS has been struggling to get electronic filing up and online.

The significance of it is that when you file electronically, the error rate is less than 1 percent. Error is real money. You make a mistake on the Government side with a tax claim, and it could end up in court for years and years and years and cost the taxpayer and the Government tremendous amounts of money. So errors are real money. In the paper world, the rate of error is 25 percent.

So we provide both incentives and resources to get to a much higher number of electronic filings which I think for taxpayers who pay to run the IRS, as well as taxpayers who are sending their money, is a tremendously important change in the law.

Ms. MOSELEY-BRAUN. Is it the Senator's impression that, along with putting some real teeth into taxpayer rights, that this legislation provides—and, again, we could do more in other legislation—but this legislation puts real teeth in taxpayer rights, and that it might also have a beneficial effect in terms of the culture or the climate of the IRS?

For example, we heard in the hearings that they had quotas. They were not official quotas but unofficial quotas. That this might affect the culture in the way that the IRS viewed its mission and viewed its responsibility to taxpayers. Is it the Senator's impression that this legislation will help move that culture in the direction of a service that is more understanding of its obligations and responsibilities to the American people?

Mr. KERREY. No question.

The PRESIDING OFFICER. The 10 minutes have expired. The Senator from Illinois had 10 minutes, and it has expired. We are in morning business.

Ms. MOSELEY-BRAUN. I did not ask for time.

The PRESIDING OFFICER. There was a request.

Ms. MOSELEY-BRAUN. For me?

The PRESIDING OFFICER. In morning business.

Ms. MOSELEY-BRAUN. No, sir. I am in the process of questioning the Senator who has—I asked the Senator to yield for questions. I asked my last question. If he would answer it. I was not speaking in morning business under the 10-minute rule.

Mr. KERREY. The Senator is right. You are absolutely right. The culture, though, is not going to change at the IRS until we give the IRS Commissioner the management authority the manager needs to be able to run the agency with performance that is based upon something other than these quotas that have been set up. Although it has been a relatively small number of instances where we identified them, it still—relatively small—it is one too many.

Ms. MOSELEY-BRAUN. Mr. President, I stand before you today in support of Senator BOB KERREY's request

to pass IRS reform legislation before Congress begins recess.

I along with all of the Senate Democrats have signed onto a letter urging Senator LOTT to bring up legislation to reform the IRS this year. I support IRS reform and believe that there should be no further delay in beginning the process of change. I am a cosponsor of S. 1096, the IRS Restructuring and Reform Act of 1997, and believe that the Senate should act on the House-passed version H.R. 2676. There are 35 Members of the Senate that are cosponsors of this bill and of those, 14 Members are on the Senate Finance Committee.

The House of Representatives has already acted on November 5, 1997, by a vote of 425 to 4 to overwhelmingly pass H.R. 2676, the legislation that would overhaul the way the IRS operates. We should too.

It has been 40 years since Congress and the President have considered significant reforms to the Internal Revenue Service. With this bill, there is a historic opportunity to overhaul the IRS and transform it into an efficient, modern, and responsive agency. The IRS interacts with more citizens than any other Government agency or private sector business in America and collects 95 percent of the revenue needed to fund the Federal Government. Congress and the President owe it to the American public to seize this opportunity and pass this legislation as soon as possible.

S. 1096 was introduced in the Senate on July 31, 1997, by Senator KERREY and Senator GRASSLEY. The Senate Finance Committee has had 4 months to take up this legislation and did not. Why?

Congress created the National Commission on Restructuring the Internal Revenue Service on September 30, 1996, which studied the IRS for a year. Seventeen Commission members and professional staff: Five appointed by the President, four appointed by the majority leader of the Senate, two appointed by the minority leader of the Senate, four members appointed by the Speaker of the House of Representatives, and two members appointed by the minority leader of the House of Representatives, examined and thoroughly developed a comprehensive report on changes needed to overhaul the IRS.

The Commission received extensive input from American taxpayers and experts on the IRS and tax system, holding 12 days of public hearings and spending hundreds of hours in private sessions with public and private sector experts, academics, and citizen's groups to review the IRS operations and services. In addition to holding three field hearings in Cincinnati, Omaha, and Des Moines, the Commission met privately with over 500 individuals, including senior-level and frontline IRS employees across the country.

All of the members of the Commission examined and analyzed the problems with the IRS and drafted a report called "A Vision for a New IRS." This report provides recommendations that will help restore the public's faith in the American Tax system.

H.R. 2676 and S. 1096 implements the recommendations of the year-long bipartisan National Commission on Restructuring the IRS. It provides better management and new protections and rights to taxpayers along with the following list of significant changes:

This legislation establishes an Internal Revenue Service Oversight Board that has 11 members including 8 people from the private sector, the Secretary, the Commissioner, and a Treasury union member.

In this bill, the IRS Commissioner will be appointed by the President with recommendations from the Board. Only the President will be able to remove the IRS Commissioner however, the Board can make a recommendation to the President for the Commissioner's removal.

This bill shifts the burden of proof from the taxpayer to the IRS.

It creates a taxpayer complaint and information audit system.

And, it brings outside expertise into the agency, so that mismanagement will end and taxpayers will not have to deal with bureaucratic redtape.

It provides significant expansion of innocent spouse relief—Eliminates requirements to limit an innocent spouse from liability for a tax delinquency of their responsible spouse. Allows a court to give proportional relief to an innocent spouse based upon a spouse's limited knowledge and responsibility.

Extends the attorney client privilege to accountants.

Expands the court's authority to award costs and fees. This legislation will change the date a taxpayer can begin to be compensated for administrative costs to the date they received their first letter of proposed deficiency from the IRS. This allows the taxpayer to receive reimbursements for the costs of defending the audit as well as the court proceedings.

No single recommendation in the bill will totally fix the IRS, but taken as a whole, this package sets the stage for an IRS that is fair, efficient, and friendly.

Despite the extraordinary agreement in the House of Representatives on H.R. 2676 and agreement from President Clinton that he would sign the bill. Senator ROTH, the Chairman of the Finance Committee believes he must spend more time and build on the House bill and act on legislation next year. This is not prudent. Americans want action now. The new Commissioner of the IRS Charles Rossotti will be sworn in next week and we should start him on the right track with a new vision for the IRS. Why put off until tomorrow, what we can do today. Senator BOB KERREY of Nebraska has requested unanimous consent that the House IRS restructuring bill, H.R. 2676, be approved by the full Senate. I agree and believe we should act now to stop the IRS abuses today.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

HOLDS ON LEGISLATION

Mr. GRASSLEY. Mr. President, I rise to express my disappointment at the fact that during conference negotiations on the District of Columbia appropriations bill, there have been efforts to drop a provision offered by Senator WYDEN and myself, and which was accepted by the Senate. This provision was the antisecret holds provision which would have put an end to the practice of putting holds on legislation or nomination in secret.

My colleagues are all aware of the practice of placing holds on a variety of measures. Any Member of the Senate who objects to a measure can place a hold to prevent further action from taking place until that Senator's objections can be resolved.

I want to be clear about one thing. This provision would not have prevented Senators from placing holds. But it would have required them to be open and acknowledge when they have placed holds. Our provision would have simply required Senators to either announce on the floor or place notice in the CONGRESSIONAL RECORD within 2 working days that they have placed a hold. It is very disappointing that the D.C. approps conferees sought not to allow this provision to remain in the conference report. More, not less, openness is needed in this institution. It is regrettable that conferees seek to maintain the status quo.

However, I want my colleagues to know that, should this provision not be included in the final conference report, Senator WYDEN and I will not consider this matter closed.

We have had to work long and persistently before to achieve legislative goals and we are prepared to do so again. We will continue to pursue this matter until we achieve the openness that is necessary to regain the public trust in Congress that it once had. I know that is a goal that we all want to reach.

Senators should remember that simply because the provision is not in the conference report, does not mean that Senators cannot take the initiative on their own and declare their desire, to place a hold on legislative activity. I call on all Senators to declare their action when they place a hold on legislation. Senator WYDEN and I have already pledged to be open about any such actions we take.

I firmly believe that shedding more light on the work that we do here can

only help make Congress more effective and accountable. It will inspire greater confidence by our constituents, without which we cannot effectively do our jobs. There has to be a fundamental trust among our constituents that we will strive to represent their interests and views. I know I've never had a constituent tell me that Congress needs to be less open, less straightforward or less honest about what we do. That's why I want my colleagues to know this is not the last they have heard of this issue. They can be in step with the American people's wishes by making their actions public and by making the holds process more open. I appeal to my colleagues to not allow this provision to be killed in the secrecy that we need to eliminate.

I also want to thank my friend, Senator WYDEN, for his hard work on this matter. It has been a pleasure to work with him on this matter and I look forward to our continued efforts together.

The PRESIDING OFFICER (Mr. COATS). The Senator from New Mexico.

Mr. DOMENICI. I don't know whether the Senator wants to extend morning business. I think we are out of morning business. I just wanted to ask a 2-minute extension of morning business.

Mr. GRAHAM. If the Senator is going to ask unanimous consent for that extension, I ask for a further extension of 10 minutes immediately following his extension for the purpose of introducing legislation.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I shall not object, but might I inquire of the Presiding Officer, would the regular order be to go back to the fast track legislation?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. It is my expectation when this morning business is completed that that will be the business before the Senate?

The PRESIDING OFFICER. That request would have to be made from the floor.

Mr. DORGAN. I ask unanimous consent to be recognized following the morning business.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. I object for the moment. I would like to discuss the matter with the leader before we proceed.

The PRESIDING OFFICER. The objection is heard.

Mr. DORGAN. Let me withdraw my objection. I certainly don't want to be discourteous to my two colleagues. The 12 minutes they have asked for is not something I object to. I will not object to these two requests.

The PRESIDING OFFICER. The Senator from New Mexico is recognized to speak for 2 minutes in morning business.

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

(The remarks of Mr. DOMENICI pertaining to the introduction of Senate Resolution 148 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Florida is recognized to speak for 10 minutes in morning business.

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

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 1471 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

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

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

IRAQ SITUATION

Mr. KERREY. Mr. President, I rise to discuss the situation in Iraq regarding the U.N. inspection regime and the refusal of the Iraqi Government to accept American inspectors and thus delay the inspections. The Iraqi purpose is clear: to attack the unity and will of the world community, and especially the members of the Security Council, concerning sanctions to Iraq; to weaken the authority of the United Nations by dictating terms of compliance to U.N. Security Council resolutions; and most important, to conceal and retain and build up the chemical and biological weapons programs of the Iraqi military.

Once again we are in a crisis with Iraq; not of our making but of theirs. The question being debated here and in the United Nations is: What should we do?

The crisis began a week ago on October 29, 1997 when Saddam Hussein sought to evict from Iraq Americans who are assigned to international inspection teams sent by the United Nations to enforce a cease fire agreement signed by Iraq on April 6, 1991, following the January 17 to February 28 war to liberate Kuwait known as Desert Storm. In the agreement Iraq promised to pay Kuwait for war damages, to destroy all its nuclear, biological, and chemical weapons capacity, and to allow inspectors into their country to verify compliance. On April 11, 1991, the U.N. Security Council officially declared an end to the war and to continuing the sanctions originally imposed on August 6, 1990.

The Security Council created the Special Commission, also known as UNSCOM, to carry out the inspection of Iraqi installations in order to verify the destruction of nuclear, biological, and chemical weapons capacity. UNSCOM—originally expected to be in operation for several months—has been in business for 6 years. During these past 6 years the UNSCOM inspectors have met with success. They reduced the Iraqi stockpile of weapons of mass destruction more than the war itself. Iraq has considerably less capability than it had when Desert Storm ended. That is the goods news. The bad news is that they retain sufficient capacity to pose a real and serious threat to the people of the United States.

The nature of this residual threat can be seen in a letter sent to the United Nations on Wednesday by Richard Butler, an arms control expert who heads the UNSCOM. According to Mr. Butler the Iraqis could easily adapt laboratory or industrial equipment to resume making prohibited materials. In his letter he says: "For example, it would take only a matter of hours to adapt fermenters to produce seed stocks of biological warfare agents. Furthermore, it appears that cameras may have been intentionally tampered with, lenses covered and lighting turned off in the facilities under monitoring."

The idea of biological weapons in the hands of Iraq's Saddam Hussein should strike fear in the hearts of every American. This man is dangerous to his own people, his neighbors, and to us.

He is also clever. His latest ploy has produced more benefits for him than losses. Again, Mr. Butler is our guide. In his letter he says that, while we attempt to negotiate a right that was guaranteed under the peace agreement they signed, Iraq has been able to hide evidence and disable surveillance equipment. He specifically notes that we cannot monitor machinery that can balance missile guidance systems or equipment that could grow seed stocks of biological agents in a matter of hours.

Mr. Butler calls our attention to two actions Iraq has taken during the week when inspectors were absent. First, significant pieces of equipment that had been under the view of video monitoring system have been moved out of range of cameras. Second, monitoring equipment has been tampered with in other areas.

Even if inspections start again, Saddam Hussein has succeeded in making our work more difficult. We must reset and re-aim surveillance cameras. We must recheck the machinery or stocks of materials these cameras watch. And we should not be certain whether prohibited arms or components had been produced in crash programs and carried away to be hid.

So, while we sit and wonder what we should do, Saddam Hussein sits and counts the ways he has benefited. A

U.N. team sent by Secretary General Kofi Annan has just returned with nothing to show for their efforts. The team leader, Mr. Lakhdar Brahimi of Algeria was quoted as saying the Iraqis were very nice. Well, why not be nice? After succeeding 2 weeks ago in defeating United States efforts to impose more intense sanctions at the Security Council, Iraq has now gotten the U.N. to send a special negotiating team to ask politely if Iraq will do what it promised to do 6 years ago when it was suing for peace.

Mr. President, we cannot allow the situation in Iraq to continue to head in its current direction. Too much is at stake. American security and the security of our allies and interests hangs in the balance of our decision.

For my part I have reached the conclusion that our policy of containment cannot succeed. We need an objective which will ensure our security. We need a goal which will guarantee the stability we seek for the region.

As has always been the case, an outrageous act by Saddam Hussein has provoked a strong reaction in this country. Military responses are broadly discussed. Editorial pages talk of making sure our military response is a head shot at Saddam himself, as though assassination were a legal option for U.S. forces. At some point we may turn to a military response appropriate in scope and direction to achieve immediate and longer terms goals. A measured action, complete with the certainty of further response if necessary, may be what is called for in this situation. But I believe we need to ensure that our military actions, as well as our diplomatic and economic efforts, are part of an overall strategy toward Iraq which will attain a goal consistent with American ideals and interests.

Today, the United States and the international community are considering whether the proper response to Saddam's actions is a limited military action targeting suspected facilities or continued talks aimed at a more diplomatic end to this impasse. These are tactical options which will enable the United States and the international community to continue to muddle through its current strategy of containment toward Iraq. While the containment of Saddam has brought limited success in disarming his military, this strategy has been ineffective in changing the behavior of the Iraqi Government and is in danger of becoming more ineffective with the passage of time.

Some commentators state that the cohesion of the Persian Gulf coalition has naturally grown more tenuous as other nations rediscover the promise of Iraqi petrodollars. They believe that our former coalition partners will inevitably find Iraq's oil wealth so tempting as to overlook the risks involved in the reemergence of a military powerful Saddam. I believe this need not be the case, if United States can formulate a strategy with clear policy objectives instead of continuing with a strategy of simply reacting to the Iraqi dictator's latest violation. We need to change our goals, our strategy, and our tactics.

I believe our policy toward Iraq should be open and direct—The United States seeks to remove the dictatorship of Saddam Hussein in Iraq and to replace it with a democratic government. Nothing more, nothing less.

Our frustration with Saddam is understandable. Six years ago we thought we had him. He failed utterly, ruined his country and two neighboring countries, caused the deaths of hundreds of thousands of people, and by our political lights he should be gone. But by his politics, the politics of a terror rivaled in this century only by Stalin's, Saddam keeps his job and we are rightly frustrated.

While Saddam rules, Iraq poses a threat to its neighbors and, by extension, to us. He still has SCUD missiles which could carry his chemical and biological agents to Israel, to Saudi Arabia, and to other nations in the region whose security is a vital American interest. He has ground forces which could invade Kuwait again or embroil any of his other contiguous neighbors in war. Those same forces threaten or oppress Iraq's Kurdish and Shiite minorities every day.

If Saddam retains power and escapes from sanctions, the threat he will pose in a decade will be far greater. He will have intermediate range or even long range missiles to carry his deadly payloads, he may have developed a nuclear weapon, and he will again have many billions of dollars in oil income to modernize his armed forces. He will be a major threat to his country and in fact to the entire world. We simply cannot let it happen, and I am confident we will not.

In considering how to respond to Saddam's latest outrage, President Clinton and the Congress need to take the long view, looking past the incident of the moment to determine the long-range outcome we want. Because we are the United States, and because we have already expended lives and treasure because of Iraq, I think our long-range goal should be ambitious.

We know from Iraqi history that Iraq is predisposed to dictatorship. We also know the dictatorships from this unbalanced state will inevitably threaten their neighbors. So getting rid of Saddam is not good enough. We need to get rid of Iraqi dictatorship. Our long-range goal should be a democratic Iraq. Other countries may be tempted to do business deals with the Iraqi dictator and tactfully glance away from his abuse of his people. We Americans should settle for nothing less than democracy.

An impossible, naive dream? I think not. The Iraqi people, despite the lobotomy Saddam has tried to give them, are a well-educated, skilled people. They know the horrors of dictatorship better than anyone else on Earth. When Iraqis tell me their heartfelt commitment to a democratic future for their country, I believe them.

How do we turn this yearning for democracy into the reality of a free Iraq? Let me lay out a road map. First, we should maintain sanctions on Iraq and return to the inspection system which existed until October 29, when Saddam excluded American inspectors from the teams. If we have to use military force to get Iraqi compliance, fine. We should strive to have our coalition partners join us in this use because the power of the world community to bring an outlaw to heel is at issue here. If Iraq can thumb its nose at the Security Council today, some other rogue state will do the same tomorrow, and the system we and our allies have carefully built over 52 years will collapse. But even if some of our coalition partners don't join us, we should act militarily if Iraq won't back down.

Second, we must convince our core European and Asian allies that democracy, not just the compliance of a dictator, is the right long-term goal for Iraq. We must show our allies the far greater benefits and reduced risks that will accrue to them as well as to us from a democratic Iraq. We must sign up our allies for the long term.

Third, we must make the people of Iraq our allies, too. We must go beyond merely stating our support for democracy and instead put concrete encouragements on the table, solid indicators of Western commitment to Iraqi democracy. We should announce we will forgive Iraqi debt if a democratic regime takes power there and we should encourage our allies to do the same. We should state clearly the loan and foreign assistance preferences which a democratic Iraq would receive from United States and multinational institutions. We should discuss our preparations to supply immediate food and medical assistance to Iraq at the moment of Saddam's replacement by a regime which states its intention to hold free elections. And we should make sure, by means of Voice of America and commercial media, that every Iraqi knows about these encouragements to be democratic. Even before change comes, these steps will restore hope in Iraqi hearts.

Fourth, we should openly and consistently state our goal of a free, democratic Iraq. To accept less and to say less is simply unworthy of our heritage. Let democracy, respect for human rights, and a free economy be our consistent mantra for Iraq, as it ought to be for every country, and some day, not far off, when Saddam's prisons and graveyards and secret weapons sites

are opened and the Iraqi people can tell the story of their suffering, we will be proud that we set a lofty goal.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The assistant legislative clerk proceeded to call the role.

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

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

UNANIMOUS-CONSENT AGREEMENT—S. 1269

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now resume the fast-track bill for consideration of the Dorgan amendment, that no amendments be in order to the Dorgan amendment, and, immediately following the reporting of the bill, the Senate resume the Dorgan amendment.

I further ask unanimous consent that, following disposition of or consent to dispose of the Dorgan amendment, Senator REED be recognized to offer an amendment regarding environmental standards, and only relevant amendments be in order to the amendment, and, following disposition of or consent to dispose of the amendment, the Senate resume morning business, and no call for the regular order serve to bring back the fast-track legislation.

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

Mr. LOTT. I yield the floor.

RECIPROCAL TRADE AGREEMENTS ACT OF 1997

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1269) to establish objectives for negotiating and procedures for implementing certain trade agreements.

The Senate resumed consideration of the bill.

Pending:

Dorgan Amendment No. 1594, to establish an emergency commission to end the trade deficit.

Inhofe amendment No. 1602, to establish a research and monitoring program for the national ambient air quality standards for ozone and particulate matter and to reinstate the original standards under the Clean Air Act.

AMENDMENT NO. 1594

Mr. DORGAN. Mr. President, the amendment pending on fast-track legislation, is the amendment I offered 2 days ago. It is an amendment called the End the Trade Deficit Act. It is S. 465, a piece of legislation that I previously introduced in the Senate that I now offer as an amendment.

Let me describe why I bring this amendment to the floor of the Senate, especially when we are dealing with the fast-track legislation.

Mr. President, this Congress has spent a great deal of time dealing with the fiscal policy budget deficit, and with some success. I might add that actions by the Congress and a healthy growing economy have substantially reduced the budget deficit. But there has been very little discussion about the other deficit. And that is the trade deficit.

This country's trade deficit is the largest in history, and growing. For those who don't know much about the trade deficit, let me explain. Understandably you do not hear much about it. All we do is crow about our exports. We talk about how much we exported. Nobody talks about how much we have imported. It is like a business talking only about their receipts and refusing to talk about their expenditures.

Here is the merchandise trade deficit. It is 21 years old. For 36 of the last 38 years we have had an overall trade deficit. For the last 21 years in a row we have had this merchandise trade deficit. This trade deficit represented here in red is getting worse—not better. The last 3 years in a row have seen record merchandise trade deficits. And this year it is expected to reach a record merchandise trade deficit.

Some say the trade deficits are really quite good for this country. They must be ecstatic because these trade deficits are expected, according to some econometric forecasters, to go from $191 billion in the last fiscal year to $356 billion by the year 2005. Some will make the case, I am sure, that it depends on the kind of trade deficits you have; what the trade circumstances are; what the economic circumstances are of the various regions of the world. I understand all of that.

But I say this: A trade deficit that is persistent and growing a trade deficit that represents a chronic 21-year uninterrupted set of trade deficits is not good for this country.

I propose a piece of legislation, now offered as an amendment, to establish a commission the members of which would hold hearings and make recommendations to Congress on how this country can eliminate the trade deficit by the year 2007.

We are having a discussion about fast track. It is a strategy that describes a procedure here in the Congress with respect to how we handle trade agreements. Most of us understand how trade agreements are negotiated. They are negotiated by trade negotiators sent overseas somewhere, in most cases. They close the door, have sessions, and come up with an agreement. They bring it back to the Congress, and they say, "Here is the agreement. Take it or leave it; up or down; no amendment."

But I want to also underscore why I feel so strongly about this issue, even as I discuss this amendment. I want to once again describe for my colleagues the dilemma we face with, for example, one free-trade agreement. This is the one with Canada. It is undoubtedly true that there are benefits to the free-trade agreement with Canada. I am sure that there are sectors in this country that can point to substantial success.

I would say this with some certainty. Those who negotiated that United States-Canada trade agreement essentially traded away the interests of family farmers in our part of the country. And the result has been that in the post-Canada free trade agreement an avalanche of unfairly subsidized Canadian grain coming into our country sent here by a state-controlled enterprise called the Wheat Board—which would be illegal in this country—sent here with secret prices that they failed to disclose to anyone undercutting the market for our farmers especially in the area of Durum wheat, and we can't do anything about it.

Oh, we can shout about it, and we can complain about it. We can send people to Canada, and make some noise about it. But the fact is that it does not get solved. It could have been solved. We could have tacked an amendment on the trade negotiation instrument that we negotiated with Canada when it came to the Congress. But fast track prevented any amendments. It predicted that we were going to have this problem, and it predicted that we weren't going to be able to do a thing about it—$220 million a year out of North Dakotans' pockets as a result of this unfair trade every year and it is growing worse—not better.

Do we think fast track makes sense? Absolutely not. We have seen the result of bad trade agreements, and we have seen the result of trade agreements that do not give us the remedies that deal with patently unfair trade.

Aside from the issue dealing with United States-Canada, I could spend a lot of time talking about our trade problems with Japan and China. I will not do it at this point. I have done it previously on the floor.

But I want to say that the chronic, persistent trade deficits that go on year after year every year in this country are a problem. We need to address it. To the extent this continues and gets worse, clearly this trade deficit will be repaid with a lower standard of living in this country. Now, it is time for us and the Congress to address that issue.

What causes the trade deficit, and what can we do to address the trade deficit?

That is the reason I propose the establishment of a commission that would seriously and thoughtfully address this issue.

Mr. President, in the interest of time I will cut short my comments at this

point. We have two on the other side of the aisle who wish to address it, following which I would like to make a couple of additional comments.

With that, Mr. President, I yield the floor.

Mr. ROTH. Mr. President, I rise in opposition to the amendment of the Senator from North Dakota, and I do so for two principal reasons. But before I discuss those reasons, I would like to point out that in my judgment the truth is that trade policy has very little to do with our trade deficit. My esteemed colleague from North Dakota, Senator DORGAN, has made that point himself. Our trade deficit is a function of simple arithmetic. We consume more than we produce and save, and the difference is basically our trade deficit.

It is also true that when we are growing as rapidly as we are, and our trading partners are not, we are likely to import more and export less. Because they prefer to hold dollars as a hedge or as an investment, our trading partners are essentially financing our ability to live beyond our means.

Now, I do not mean to underestimate the need to get our economic house in order. Getting our budget deficit under control is a significant step in that direction.

What I have said does not mean that we should not do everything we can to ensure that our trade policy does not contribute to our trade deficit. We should and must insist that our trading partners open their markets to our goods. The defeat of fast track would do nothing but hinder that effort. It would offer our trading partners an excuse not to negotiate with us. It would offer them an excuse to maintain their barriers to trade and exacerbate whatever impact our trading policies may in fact have on our trade deficit. We should instead be looking for every weapon in our arsenal to ensure that we open markets and keep them open. Fast track is one of those weapons. I do not see the point of unilaterally disarming if you are seriously concerned about doing something about the trade deficit.

Now, Mr. President, as I said, I do oppose the amendment by the Senator from North Dakota, and I do so for two principal reasons. First, we face many challenges on the international economic front. The trade deficit is one of them but certainly not the only one, nor even necessarily the most significant in my view.

To me, the broader question, and, frankly, the one that is most likely to affect our economic future, is how we come to grips with the increasing globalization of the world economy. The world economy is undergoing fundamental changes that have deep importance for our economic future, and we must decide whether we embrace that challenge or try to hide from it.

While I do not disagree that it would be useful to look at the underlying causes of the trade deficit in that context, there certainly are many other issues of greater significance that have been raised in this debate alone that would deserve similar attention by such a high-powered group as that described in the Senator's amendment.

Second, we should also understand that the amendment will require a hard look at whether we have our own economic house in order. Since the root cause of the deficit includes our domestic economic policies, we will be asking the commission to delve deeply into our fiscal and monetary policies. My point is that there already are a number of governmental institutions that are involved in these processes where there is expertise on these matters such as the Treasury, the Commerce Department, the Federal Reserve, as well as our congressional committees. I wonder whether the commission is needed given the resources we already have available.

Third, I am always concerned when we raise a proposal for a commission or another advisory board that we not use them as a reason to avoid the responsibilities we have in Congress for addressing these issues. Plainly, we have the resources here in Congress to examine these questions in depth, and I am certain we would want to explore those possibilities before establishing yet another blue ribbon commission. If the question is how do we eliminate the trade deficit and our trade policy is part of the answer, then the first step we should take is to pass this legislation. This bill is, after all, about breaking down trade barriers abroad, and that is undeniably a step in the right direction in eliminating trade deficits.

As a consequence, while the concept may have merit in some sense, I oppose the amendment as offered and will ask my colleagues to do the same.

Mr. President, I yield back the floor.

Mr. GRAMM. Mr. President, let me begin by outlining the points I want to make, and I will try to be brief about it so that we can get on with other business of the Senate.

First of all, I want to talk about why I oppose this amendment. I want to talk about the two principal problems it has. I want to outline changes that could be made that would make it possible for us to support the amendment and to see us proceed on a bipartisan basis. And then, without getting into a long oration or, as a critic would say, a lecture on international economics, I want to talk a little bit about trade deficits, about the sources of America's trade deficit, and talk a little bit about the history of the trade deficit in our country, and I intend to do all of this while trying to deviate from my background as an old schoolteacher and be brief.

First of all, there are two problems with the amendment. No. 1, we are not going to adopt a proposal to create any commission that is going to be stacked on a partisan basis. There is no way we are going to adopt a commission that has three more Democrat members than Republicans when we have a Republican majority in both Houses of Congress. So I think the first thing we are going to have to do, if we are going to have a commission, is to have the same number of Republicans as Democrats.

I think it would be a good idea to try to set some parameters on the kinds of people that should participate on this commission. If we do not want this to turn into a political commission with a bunch of political hacks on it, it would be helpful to have people who are genuine financial, economic, and international trade experts, and ones who could bring with their expertise a high degree of objectivity. I think the degree to which we could set some parameters as to who would be on the commission would probably be helpful. I do not think we achieve anything by appointing a partisan commission with a bunch of political hacks on it who have an ax to grind and are simply looking for a forum to try to promote their own political interest, their special interest, or their individual agenda.

Second, I cannot see how we could adopt a commission that was given a mandate that without regard to any other policy, our goal should be simply to eliminate the trade deficit by the year 2007. I believe there are things we could do and should do that would be beneficial to the elimination of the trade deficit. And I will talk about them. But the idea that without doing those things we should simply set out to build walls around America, drive up costs to consumers, drive down living standards, disrupt economic growth, is something I think we have to be very careful about.

So I think we could have an agreement here if we have a genuine bipartisan commission. I think we could have an agreement if we could try to focus the membership of the commission so that we are seeking advice from people who actually know something about the subject rather than a bunch of politicians who are simply going to express their special interest. And I think we need a little bit broader objective than simply to say that we should eliminate the trade deficit by the year 2007.

To listen to those who oppose fast track and who are talking about gloom and doom on the trade deficit, you would not realize that yesterday the unemployment rate was announced and it is 4.7 percent, which is the lowest unemployment rate we have had since the early 1970s. In other words, today, with the largest trade deficit in American history, we have the lowest unemployment rate we have had in almost a quarter of a century.

Let me say a little bit about trade deficits. Trade deficits in and of themselves are not good or bad. They are simply an indication of a lot of other things that could be good or could be bad. Let me give you an example. From the moment that the first settler stepped on the North American continent at Jamestown, VA, until the end of World War I, for all practical purposes colonial America and the United States of America ran a trade deficit nearly every single day—every single day. And yet we had the most sustained period of economic growth in the history of mankind.

Why were we running a trade deficit from the time the first American stepped off the boat at Jamestown until the end of World War I? We were running a huge trade deficit because with this vast continent, with its boundless natural resources, with its fertile land and limitless forests, with its harbors and rivers, and with people who had more freedom than any people had ever had in the history of mankind, people from all over the world wanted to send their money here to invest in our economy. So the British sent the money to build our railroads. Investors from all over the world not only sent their money but their children to come and participate in the American miracle, and so as a result we had a trade deficit practically every single day from 1607 to roughly 1920. And to listen to our colleague from North Dakota, with all due respect, it should have been a bleak, dark, doomed place, this America. But the plain truth was we had more growth, more opportunity, more freedom and more prosperity than any place in the history of the world, then to now.

Deficits are like debt. They can be a path to prosperity or they can be a path to disaster. And it all depends on what you use it for, why it comes about. Borrowing money can make you rich, if you invest the money and earn a rate of return bigger than what you have to pay to borrow the money. It can also make you poor if you invest the money poorly or simply go out and spend it until you have to pay the money back.

Now, let me try, as briefly as I can be brief, to explain why we have a deficit. We need to understand that the exchange rate between the dollar and other currencies is set every day on an international exchange market where there are literally hundreds of billions of dollars of transactions every single day.

Now, on this market people are buying and selling dollars, sometimes by the billions of dollars per transaction. Why do people buy dollars? People buy dollars to buy American goods. They buy dollars to invest in America or to repatriate earnings to America from American investment abroad. They buy dollars to hold as an international currency. In fact, the dollar has become the international currency of the world, and, remarkable as it sounds, we have printed hundreds of billions of dollars and people all over the world hold them to use them in their own economies. And we have been a huge beneficiary of that.

Now, why do Americans buy other currencies? We buy other currencies with dollars because we want to buy foreign goods, because we want to invest abroad, because we want to repatriate earnings abroad, but by and large we do not use other currencies as an international exchange, not nearly as much as the dollar is used. Now, what this means is every day on the market for international currency, the value of the dollar relative to the yen, the value of the dollar relative to the pound, is set exactly at that point where the dollars that are being demanded to buy American goods and to invest in America are exactly equal to the dollars that we are supplying to try to buy that currency, to buy its goods, or to invest in that country.

If that isn't so, then the exchange rate moves. Why is that significant? It is significant because what it really says, for all practical purposes, is that anytime you have a trade deficit you have either a capital surplus and/or people overseas are, for some reason, holding our currency. This last factor is not nearly as relevant for any other country in the world, but because our economy is the strongest in the world, because our dollar is the soundest in the world, people want to hold American dollars. As long as people want to invest in America—and today we are having a huge level of investment in America from all over the world—we are going to have a trade deficit because we have a capital inflow. Those who would like to see it otherwise are trying to repeal double-entry bookkeeping, because basically what we are seeing here with the trade deficit is accounting more than it is economics.

We are seeing the accounting of the fact that we have high real interest rates because our Government is still a big net borrower—because we as a nation don't save very much money. We have the lowest savings rate of any industrial country in the world, largely because we have a Social Security system that is pay-as-you-go and discourages personal savings for retirement. It doesn't have a real trust fund. Social Security contributions are taxes, not savings. And, so, we have collectivized retirement and retirement medical care and converted them from savings for the future into taxes for consumption today. We are not building up assets to pay for our future obligations. So, as a result, we are overspending. This is to say that while at the same time we have the strongest economic performing economy in the world on one hand, that people want to invest in, we have the lowest savings rate on the other. So all over the world people are trying to buy dollars to invest here because of high equity returns and relatively high real interest rates.

Now, if we want to do something about that we certainly don't want to do anything about the high equity returns. We don't want to prevent American businesses from growing and providing jobs. We certainly don't want to pass a law that says to people all over the world, "Don't send your capital to America to put it to work." One of the principal reasons we have the lowest unemployment rate we have had in 24 years is that literally tens of billions of dollars of foreign capital flow into America every year. And our foreign investors are, in the process, helping to put our people to work.

But, if we really are concerned about the trade deficit, we ought to deal with the deficit in our budget, not just the on-budget deficit but all the money we are borrowing for off-budget accounts. We ought to restructure Medicare and Social Security and have an investment-based system where real capital is being built up so we can have real savings to match our growing future liabilities. We can lower interest rates by encouraging people to save more. The chairman of the Finance Committee, with his Roth IRA—and, by the way, Mr. Chairman, I heard a radio commercial yesterday morning from some securities firm advertising Roth IRA's. Those are ways that we can encourage people to save, bringing about lower interest rates, and reducing our reliance upon foreign sources of capital to America. And maybe that is something that this commission ought to look at.

What we are looking at here with this amendment, to try to sum up and be brief, is we are looking at a symptom and not a cause. We have a big trade deficit because we have the strongest economy in the world and people want to invest here. We don't want to do anything about that. We have a trade deficit because we have very high real interest rates, and with very high real interest rates people want to come here to get those returns on their savings. We could do something about that if we encouraged people to save more, and if we did something about the underlying deficit, including the real, unfunded long-term deficits in Social Security and Medicare.

So, to the extent that this commission could look at these underlying problems, then I think we could begin to try to do something about the trade deficit. But I go back and reiterate the point that I made earlier. Trade deficits in and of themselves do not give you any kind of effective measure of the strength of the underlying economy. We had trade deficits from the colonial period to World War I, when we

had the strongest economy in the world. We have had trade deficits in trying to rebuild Europe and Japan, when we had very, very strong economies. We have had trade deficits and trade surpluses with countries all over the world. Some of the countries with the poorest economies have had trade surpluses. I don't know what the trade surplus or deficit is for North Korea. It would be a perfect model for many, in the sense that they don't import many goods, they protect their jobs, but the problem is they don't have good jobs because they are poor because they don't trade.

So, what we would like to do, to try to get on with fast track and hopefully pass it, if the House does, is see if we can work out an agreement to do three things. First, have a true bipartisan commission and, if possible, in that bipartisan commission, let's try to put real experts on the commission—not politicians—who could bring some expertise to the problem and help us have some constructive ideas as to what to do about it.

Second, let's look at the underlying causes of the trade deficit. Let's look at protectionism, both here and around the world. Let's look at our deficit in the Federal budget. Let's look at our long-term structural deficit in our two big programs, Medicare and Social Security. Let's look at what we can do to encourage Americans to save, and in the process reduce real interest rates, reduce our reliance on foreign capital, and in the process lower the trade deficit.

So, I think there is room here for a compromise. I hope we can reach it. But in terms of the way the amendment is now drafted, we are opposed to it. But if we could refocus it, if we could make it truly bipartisan, if we could look at the bigger picture, then I think that we could have the ability to reach a compromise. I think we could adopt this—either as an amendment or as a freestanding bill, depending on what happens in the House on fast track—and I think that in the process we could go a long way toward completing the business of the Senate.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from North Dakota.

Mr. DORGAN. The Senator from Texas whetted my appetite once again on economic theory. I studied economics, taught economics in college briefly, and was most interested to hear the Senator from Texas.

Because I did teach economics very briefly, I have heard all of the stories about economists, as the Senator from Texas has, and all the definitions.

The one about, you know: An economist is one who can describe with all great details the workings of the world but can't remember his phone number.

An economist is someone who looks at something that works in practice and wonders whether it can really work in theory.

Let me, for a moment, respond to a couple of the points made by the Senator from Texas. First of all, I am happy to see if we can reach some agreement on some of these provisions. This does not propose to establish a commission with a bunch of political hacks, to use the words of the Senator from Texas. I have no interest in establishing a commission with political hacks. I am interested in establishing a commission that might address a real problem and make recommendations about how to respond to that problem.

A couple of points first. The Senator from Texas mentioned Social Security several times. I just want to clear up a point. It really doesn't have very much to do with this. The Senator from Texas was mentioning Social Security in the context of domestic deficits, as something that is out of control. This year, Social Security will take in nearly $70 billion more than it will expend. Social Security is not running a deficit, it is running a surplus, and a very significant surplus at that. Why? Because it is one of the few sober things we have done in the last two decades. We finally required a forced pool of national savings in Social Security to meet the time when the baby boomers retire.

So this year, the Social Security system will run about a $70 billion surplus, and that annual surplus will continue year after year after year until about the year 2018. So I don't want that reference to pass unnoticed and allow someone to think, gee, there is a huge deficit in the Social Security account.

I have a couple of other points. We are told from time to time that we have a trade deficit because we have a budget deficit, and if we get rid of the budget deficit, gee, the trade deficit will be no problem at all. The trade deficit will disappear.

The budget deficit is going down, down, down, way down, and yet the trade deficit is growing. So I ask those who tell us that the trade deficit is simply a function of the budget deficit, why does your theory now seem to be wrong? You said that if the budget deficit decreases, the trade deficit will vanish. Why, when the budget deficit not only decreases but nearly goes away, do our merchandise trade deficits reach the largest level in the history of this country? Is it perhaps that the theories are all wet?

Then some say, "Well, we know we talked about the budget deficit related to the trade deficit. If that's not the case, then its the strong dollar. The strong dollar is our problem?" That is what causes this sea of red ink of merchandise trade deficits that are getting worse? It is the largest in history and setting new records every day and getting worse.

When the dollar is strong, we have a trade deficit. When the dollar is weak, we have trade deficits. What do you say about that? Is maybe the theory is all wet there as well?

Might it be, at least in part, something no one is willing to discuss much. That is that we have a free-trade system in which our markets are wide open and we have expectations of trading partners who open their markets but they don't open their markets. Their markets are not open to American goods. Might it be that our markets are open, but the Japanese markets are not wide open to American goods, the Chinese markets are not wide open to American goods? Might that not be the case? Could that conceivably be the reason for part of this or a significant part of this trade deficit? I think it is.

The Senator also discussed what happened at the turn of the century and the prior century about trade deficits. Comparing the economic circumstances of the prior century and its trade deficits to today is like comparing a teaspoonful of water to a bathtubful of water. These trade deficits are serious, alarming, and growing. Let me take this from theory to practice.

At least a part of this red ink is because we are seeing American jobs leave this country and move elsewhere, and those jobs then are used to produce the same products to ship back into this country, and that contributes to this trade deficit.

Bob Bramer worked for 31 years at Sandvik Hard Metals in Michigan. He saw his plant close down, saw the equipment put on a truck and hauled to Mexico. His and 26 other jobs went south. He didn't lose his job in theory. He lost his job, and his family lost his income. He lost his career. His job was put on a truck and moved to Mexico.

Nancy Dewent, 47 years old, worked at a plant for 19 years in Queens, NY. They were making Swingline brand staplers; 408 jobs. Now they are moving to Mexico. Nancy was 47 years old making $11.58 an hour. Those staplers will now be produced in Mexico at 50 cents an hour, and that will help, of course, increase this trade deficit. Nancy didn't lose her job in theory, she lost her real job. This isn't economic theory, it is what our current trade strategy is producing.

Fruit of the Loom was scheduled to close plants in Kentucky, Mississippi, Louisiana, and Texas last month; 5,100 workers, workers getting up to $10.50 an hour; moving plants and jobs to other countries for 5 years in a row.

There is Borg-Warner, Muncie, IN, where 800 workers are losing jobs which pay $17.50 an hour; moving to Mexico. This isn't theory, these are families, people who have lost their jobs, and it shows up here in red.

We can give lectures about economic theory forever. But the central question is, do you think that 21 straight years of trade deficits produced by this trade policy is troublesome for this country, or do you think, conceivably, they are good for this country? Do you think more red ink might be good for this country? Some argue that. They must be ecstatic if that is the case, because this red ink is growing. They must be the ones walking around with the widest smiles in town.

But there are those of us who think that trade deficits are troublesome. We are concerned that markets are closed to this country when we open our markets to others. We think that we ought to be a country that cares a little about its manufacturing base and keeping good manufacturing jobs in this country by requiring that other markets be open to our products. We should be requiring that others who produce and ship here be required to respond to the same kind of issues we are required to respond to such as that you can't hire kids, you can't hire 12 years old, work them 12 hours a day and pay them 12 cents an hour. That's not fair. We shouldn't be expected to compete with that.

Is it reasonable for us to at least require some important provisions dealing with labor and the environment and other issues in these trade agreements? The fact is that we don't. What we say is, "It doesn't matter what you do. It doesn't matter how you produce, and ship it here, we will buy it. By the way, it doesn't matter so much that you won't let your markets be open to us. We will accept that. Anyone that stands up and says that is troublesome for the country, we will tell them they don't know what they are talking about, because it is conceivable these trade deficits are good for our country." Now that's what they say.

You talk about economic gibberish. This is not good for our country. This is the other deficit that is the worst it has been in the history of this country and getting worse every year and one we ought to do something about. You can name family after family after family in this country who are already victims as a result of this deficit or whose lost jobs helped cause this deficit. It is because those jobs used to be here and now they are there. They used to be in this country, now they are gone.

Why? Because in the name of profits, the multinational companies in this country and around the world constructed an economic system defining production to be available to them in the lowest-cost production areas in the world. They circle the globe and find out where can you produce, where at the same time you can hire kids, pay them pennies, and dump the pollution in the water and ship the product to Fargo, Los Angeles and other places. They simply look to where can they produce in those circumstances in order to maximize your profit. It doesn't matter to them what happens to this country's deficit. It doesn't matter so much to them what happens to this country's jobs.

That is why I am concerned about all this. That is why I asked in this limited circumstance for a commission to consider ways that we can address the trade deficit, ways this country can begin to end this hemorrhaging of red ink.

Mr. SARBANES. Will the Senator yield?

Mr. DORGAN. I will be happy to yield.

Mr. SARBANES. I ask the Senator from North Dakota, in fact, what has happened to the U.S. trade balance is a marked deterioration in our position in the post-World War II period. In other words, beginning after World War II, we ran a modest trade surplus year in and year out, and beginning in the mid-1970s and continuing thereafter, as the Senator indicates on his chart and indicated on this chart, we have been running these very large negative trade balances, sometimes as much as $150 billion, $180 billion in a single year. The consequence of running these trade balances year in and year out cumulatively is about $1.5 trillion. The result of that is a deterioration in the U.S. position from being a creditor nation to now we are a debtor nation.

Mr. DORGAN. Is it not the case that we are the largest debtor nation in the world?

Mr. SARBANES. The United States is the largest debtor nation in the world. People say, look, if we were a developing country just setting out on the process of development, there is an argument that can be made that you run a trade imbalance. And if you are smart in your trade imbalance, you bring in investment to develop your economy for the future. That is what the United States did in the 19th century.

But the United States now is supposedly the most developed country in the world. The most developed country in the world, supposedly the world's leader, ought not to be a debtor nation and ought not to be running these large trade imbalances.

I say to the Senator from North Dakota, here is what happens. You know, people say, "Well, people are losing jobs." And they say, "Well, they're losing jobs, but other people are gaining jobs from the exports, and, as a consequence, we're strengthening ourselves as a nation." We are not strengthening ourselves as a nation. We are running these very large trade deficits year in and year out.

This represents a marked deterioration in the American position. We did not do this between the end of World War II and into the 1970's. It is only over the last 20 years that we started running, year in and year out, these very large trade deficits.

As the Senator from North Dakota points out, the reason for them, I think, is fairly simple. Our market is very open for other countries to send goods into the United States. And many of those markets are relatively closed to us. We export $12 billion a year to China, to the PRC, and take from the PRC $52 billion a year; $12 billion goes that way and $52 billion comes this way, for a net imbalance of $40 billion. And it is growing year to year to year. Every year it keeps going up.

Mr. DORGAN. Let me ask the Senator to respond to this.

China, the People's Republic of China, dealing with American movies, allows 10 movies a year in China, no more, just 10. They cut it off at 10.

China does not allow nearly enough American pork. In fact, we send very little pork into China. The Chinese consume one-half of the world's pork, but we send very little pork into China. We used to be the world's largest wheat supplier to China. Now we are displaced as the largest wheat supplier to China even as they ship increasing quantities of Chinese goods to this country.

In addition, the Chinese have ratchetted up this huge surplus with us—or we a deficit with them—to very significant levels. What they need are airplanes. They only produce—as I understand it, they produce one airplane that I think holds 50 or 60 passengers. They need airplanes. In fact, they need a couple thousand airplanes that they are going to need in the years ahead.

Guess what China says? China says, "Well, what we'd like to do is we'd like to consider buying your airplanes, but you must manufacture your airplanes in China." This is at a time when we are already running a huge trade deficit with China.

My feeling is: China sends its goods to this country to our marketplace, and American consumers buy them. We make something China needs. China has a responsibility to buy from us wheat, pork, and airplanes.

But that is not the way the world currently works, because this country does not have the nerve, the will, or the courage to stand up to trading partners—China, Japan, Mexico, Canada, and others—and say, "Here's what's fair for the American economy. Here's what's fair for American workers." If we don't have the nerve to stand up for this country's economic interests and demand fair trade, then we are going to continue to see this sort of hemorrhaging year after year as far as the eye can see.

Mr. SARBANES. The Senator is absolutely right. The question is not whether you are going to trade; it is the terms on which you will trade. What are the rules going to be? Of

course, China's trade surplus with the United States finances China's trade imbalance with the rest of the world. So, in effect, we make it possible for China to purchase from other developed countries, the European countries, for example, who are very careful to keep their trade relationship with China in much more of an even balance.

So, year after year, we run these large trade deficits, and everyone says, "Well, it doesn't matter." It does matter. It does matter. It affects the standing of the United States as a world power. You cannot long be a world power if you are the world's largest debtor country.

This chart makes a difference. The United States for decades was a creditor nation—others owed us. Now we have deteriorated to where we are now the largest debtor nation in the world to the tune of $1 trillion—a $1 trillion debtor nation.

People get up on the floor of the Senate, and they make these expansive speeches about what a great power we are, and so forth and so on, and yet our economic status continues to deteriorate year after year.

This is the issue that needs to be addressed. This is exactly what this commission would try to do. The fact of the matter is that in this trade debate there is an effort to frame it as though the people that are losing their jobs are screaming, which they well should be, but then it is argued, well, this has to happen when you have trade development and, you know, there are people who get jobs in the export industry.

The fact of the matter is, we are losing far more jobs on the import side than we are gaining on the export side. I mean, if the trade was roughly in balance, then you'd have a different set of circumstances. But we have been running, as the Senator has pointed out, these very large trade deficits, year after year after year.

That is a deterioration in the American position. I defy anyone to try to make the case that it is a good thing for the United States in present circumstances to be running these large trade deficits, that it is a good thing for the United States, supposedly the world's most highly developed economy, to go from being a creditor nation to being a debtor nation. It is obviously not a good thing. We need to address this issue. This commission would be one way of trying to do that.

Mr. DORGAN. Mr. President, if I might reclaim my time.

The Senator from Maryland is an extraordinarily effective advocate for that point of view. And it is one that I share. He, along with Senator BYRD from West Virginia, is a cosponsor of this amendment and the legislation that mirrors it that we had introduced earlier in this Congress.

I must leave the floor, and I don't know whether the Senator from Maryland has other thoughts to continue with, but I know that under the spirit of the unanimous-consent request, upon disposition of my amendment, Senator REED from Rhode Island would be recognized to offer an amendment. My understanding is that he would not require that it be voted on today, but he does want to offer it and have some discussion about it.

The disposition of my amendment would be this. What I would like to do is engage the staff of the Senator from Delaware and the Senator from Texas, who spoke earlier, to see if there are ways to deal with the questions they raised about the commission.

As I understand, the Senator from Texas indicated that he would not necessarily object to the establishment of a commission if we could reach some compromises on the conditions of such a commission or the makeup of the commission.

Would that be the understanding of the Senator from Delaware with respect to Senator REED?

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I would like to see if it is possible for us to reach agreement on your amendment. I think in general principle we can work with you. But I do think there are some significant changes that have to be made, including the makeup of the commission itself. So it would be my understanding that tonight, at the staff level, we could probably work and see if we cannot reach agreement and try to do that so we can complete it at the earliest possible time.

But my understanding is that the distinguished junior Senator from Rhode Island would seek to introduce his amendment, but it would be with the understanding that there would be no votes on that amendment tonight but merely to introduce it.

Mr. REED. That is correct.

Mr. ROTH. With that understanding, that is satisfactory to me. So we will lay your amendment aside.

Mr. DORGAN. Mr. President, I ask unanimous consent my amendment be laid aside in order that the Senator from Rhode Island may offer his amendment.

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

AMENDMENT NO. 1613

Mr. REED. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED] proposes an amendment numbered 1613.

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

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

The amendment is as follows:

Amend section 2(b) after section 2(b)(15) to add the following new paragraph:

(16) The principal negotiating objective of the United States regarding the environment is to promote adherence to internationally recognized environmental standards.

Amend section 10 at the end, to add the following new definition:

(7) Internationally Recognized Environmental Standards—The term "internationally recognized environmental standards" includes—

(A) mitigation of global climate change;

(B) reduction in the consumption and production of ozone-depleting substances;

(C) reduction in ship pollution of the oceans from such sources as oil, noxious bulk liquids, hazardous freight, sewage, and garbage;

(D) a ban on international ocean dumping of high-level radioactive waste, chemical warfare agents, and hazardous substances;

(E) government control of the transboundary movement of hazardous waste materials and their disposal for the purpose of reducing global pollution on account of such materials;

(F) preservation of endangered species;

(G) conservation of biological diversity;

(H) promotion of biodiversity; and

(I) preparation of oil-spill contingency plans.

Mr. REED. Mr. President, my amendment would, within the context of fast track, direct the President to undertake as a principal negotiating objective to promote the adherence of internationally recognized environmental standards.

Essentially, what we have to do to improve the legislation before the Senate is to recognize that environmental quality is an important issue. It is an important issue for us, all of us who breathe the air, swim the waters, eat the bounty of our land, but it is also a very important issue in terms of economic competition because in many respects what we are seeing in countries that are trading with us is a conscious and at times very committed and deliberate attempt to use environmental quality and the lack of environmental quality to gain advantage over American workers.

The underlying legislation circumscribes the ability of the President to deal effectively and forcefully with the issues in environmental quality within our potential trading partners. That, I think, is essential. Indeed, the experience of NAFTA should convince us very persuasively that we have to deal with the environment in order to set up a reasonable, fair, balanced trading regime between one country and another. The experience of NAFTA has shown us that there are trading partners who are using the environment, environmental laws, preferential environmental treatment of their companies, to attract and to lure American businesses to their country.

For example, the Canadian Province of Alberta, which was one of the only two Canadian Provinces to sign the side agreement with respect to the environment in NAFTA, adopted legislation in May 1996, prohibiting citizens

from suing environmental officials to enforce environmental laws. In effect, limiting the authority, the enforcement capability of their own environmental laws. As a result, Alberta has since been advertising its lax regulatory climate as "the Alberta advantage." Now, that might be an advantage for Alberta but it is definitely a detriment to the men and women of America who have to follow environmental laws which we pass in this body.

In October 1995, Mexico indicated that they would no longer require environmental impact assessment for investments in highly polluting sectors such as petrochemicals, refining, fertilizer, steel. Now, we all recognize and realize that any company in the United States that was investing or proposing to invest in one of these facilities would have to go through a very rigorous environmental impact assessment process. So when you have a multinational company making a decision of whether to go and respect and follow the law of the United States or go to a country that has announced they don't do environmental assessments, I think it is very difficult to see why some of these countries stay in the United States.

At the heart of our fast-track efforts should be a strong commitment to the environment, not just because it is the right thing to do but because it is the most consistent way that we can make our companies as competitive as we can with companies around the world.

There is another example in Mexico. After NAFTA, a series of multinational companies built a technology center in Ciudad Industrial. Now, these are state-of-the-art factories, state-of-the-art facilities, but what they are doing is taking all their waste and dumping it right into the sewers without any treatment or hardly any treatment at all, something we could not do in the United States, something you couldn't do in Europe, but something that is done every day there. Again, an advantage to these companies in terms of costs they must pay for environmental quality and inducements for companies like that to leave countries like the United States and other countries that have high environmental quality standards and go overseas to these particular areas.

We have to take strong, purposeful steps to ensure that environmental quality is at the heart of our trade policy. Again, it is not just altruism or idealism. It is cold, hard, economic facts that we have to recognize. You don't have to go very far to find examples of how multinational companies are taking advantage of lax enforcement around the world in environmental quality. In today's New York Times on the front page there was a story about the Nike corporation. In January of this year, Ernst & Young, the auditing company, prepared a report to Nike about one of the factories in Ho Chi Minh City in Vietnam. It found that the workers there were exposed to carcinogens that exceeded local legal standards by 177 times. That is, 77 percent of the employees suffer from respiratory problems. Moreover, when they looked further into the plight of these employees, it found that they were working 65 hours a week for a grand total of $10. That is 15 cents an hour. If you look at those low wages, together with lax environmental standards, that is a very potent combination that makes it very difficult for our manufacturing companies in the United States to be competitive at all.

Now, some proponents of free trade say that is one of the consequences of free trade, that lower wages will attract investment. But the benefit to the people in America is low-cost goods. Nike sneakers are about $125 a pair or $150 a pair. These are not exactly low-cost goods. Last year, Nike made $800 million on total sales of $9.2 billion.

The workers in Vietnam certainly are not benefiting from this great, tremendous, volume of sales, and in fact, American consumers are not benefiting from low-cost sneakers. They are very high-priced, prestige sneakers. What has happened is that our footwear manufacturing industry has been decimated. Growing up in Rhode Island, I was quite familiar with surrounding communities, particularly Brockton, MA, where most of the shoes in the world at one time were made. Those factories are empty and idle and those workers have gone off to do other things, but not to compete in the footwear industry.

It is absolutely critical to recognize the reality of international trade where environmental quality—I should say the lack of it—is a strong competitive inducement to move capital into these countries. The result in some cases is very frightening, not only in terms of the impact on our workers but certainly the impact on the workers who are working in these facilities.

Let me summarize the Ernst & Young report as reported in the New York Times. They painted a dismal picture of thousands of young women, mostly under age 25, laboring 10½ hours a day, 6 days a week, in excessive heat and noise and in foul air, for slightly more than $10 a week. The report also found that workers with skin or breathing problems had not been transferred to permanent chemical-free areas, and half of the workers that dealt with dangerous chemicals did not wear protective masks or gloves. We could say well, gee, I feel sympathetic to the worker and as a humanitarian and as a kind, decent person that shouldn't happen, but that is their country. That is their culture. Those are their decisions.

But it is hard when, as I do, you go into a Rhode Island jewelry factory, for example, and look at individual entrepreneurs whose families have built a business over two generations, who invested their sweat and their time and their fortune to try to build a big company, good company, and you find out that they have to pay a minimum wage, they have to ensure that their workers, if they are exposed to chemicals follow rigid procedures, they have to ensure that their waste is pretreated, and you ask those business men and business women how they are doing, and they say poorly because of international competition. Then you know that reports like this are not merely academic journalistic humanitarian conclusions. They strike at the very heart of whether small business men and women in this country can continue to compete.

They are not asking for protective tariffs. They are not asking for us to withdraw from the world trade as some of the proponents of this legislation might suggest. But what they are saying is, give us a chance to be competitive on an even basis. When you negotiate treaties, raise the standards, the environmental standards and the working conditions so that we can try to use our talents, our ingenuity, our skill, and our resources to be competitive.

If you don't do that, not only are you doing a disservice to these people who are trapped in these 10-hour days, in poor health-threatening environments, you are striking at the very competitiveness, the very survivability of so many small businesses around this country, particularly in my part of the world.

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

Mr. REED. Yes.

Mr. SARBANES. Isn't it a fact that if you can't bring in the environmental standards and the working conditions, you are not going to be able to compete on a level field? Either one of two things will happen. You will remain at a competitive disadvantage, as the Senator has noted, I think, very perceptively; or there is going to be a tremendous downward pressure to lower environmental standards because people will say, well, we are at a competitive disadvantage, we can't have these environmental standards.

Now, we have been through the whole debate about the environmental standards, and they are clearly necessary if we are not going to befoul the very world in which we live.

This legislation doesn't make the environmental concerns a legitimate objective. The Senator made a very thoughtful speech the other evening about the difficulty with this legislation, about, as I recall, setting out what our negotiating goals ought to be. It seems to me that this is a clear example of such failure, because the legislation does not permit environmental

considerations to be a central negotiating goal, as I understand it; is that correct?

Mr. REED. The Senator's understanding is correct. My reading of the legislation would allow certain discussions about environmental standards, along with other standards, if they directly related to trade. But they would not provide the President with the instructions, the support, and the direction to go out there and make environmental quality in these foreign countries a centerpiece, an important part of our negotiations.

Mr. SARBANES. If the Senator will yield further, my further understanding is that, to the extent this legislation deals with environmental standards, it simply says the countries cannot lower their current environmental standards in order to gain a trade advantage; is that correct?

Mr. REED. I think that's right. Again, I think it's probably not even that clear in terms of what they can do because, essentially, as I read the restrictive language directly related to trade, it could be read to simply say that we have a product, for example, that we are sending in with a label on it, and if the country objects to it or wants more labeling, then we can say, well, that is impermissible. But as far as whether they have pretreatment of their waste, as far as whether the respirators in their factories, as far as whether they have environmental standards—air quality and water quality—that seems to be totally off the table. But that is what impacts on the quality of the workplace. Also, it is an inducement for capital to go from our country into these countries because, essentially, they are avoiding costs.

The Senator probably was contacted, like I was, by individuals concerned about the proposed ambient air quality regulations in the United States. Some representatives of major companies have bluntly told me, "If these pass, we are going to Mexico. They don't have these ambient air quality standards, and we will avoid millions of dollars in costs. We will just move out."

Now, that might simply be a bluffing tactic, a negotiating ploy to try to stop these regulations. But at some point, if we continue to try to have a clean and healthy and safe environment, these costs add up and companies can avoid them by going elsewhere.

Mr. SARBANES. The Senator is absolutely right. Of course, the reason we put in the environmental standards is we went through a long debate that indicated we were paying a very heavy health cost because we didn't have clean air and clean water. So we made the effort to get clean air and clean water, which I very strongly support. But now if you are going to go into international trade and your competitors are free of having to meet any of those standards, then they are, as you say, at a competitive advantage in dealing with you. That is one of the things we are facing. I can't, for the life of me, understand why it is unreasonable or impermissible to bring the environmental concerns into the middle of the trade negotiations as well.

Mr. REED. The Senator is exactly right, in my view. Let me add another point that I think is very important. We have talked about the inducements for capital investment because of low environmental quality around the world. We have talked about the effects on working men and women who are there in those factories in Ho Chi Minh City, Malaysia, throughout the East, and in Mexico. I suggest that this has a real impact in our own home communities, such as Baltimore, MD, and Providence, RI, where small business men and women are struggling to apply the environmental quality standards that we all passed and they agree with. We all see the benefits to our society and culture, but it is detrimental to their economic viability versus these countries across the sea.

There is another factor, too. Just a few weeks ago, Senator HAGEL and Senator BYRD came before this Senate with a resolution, Senate Resolution 98. It essentially said that we are not going to tolerate an environmental regime internationally that puts the burden of remediation and cleanup on the United States to the detriment of our economy. We are going to demand that developing countries also stand up and share the burden of cleaning up the environment. It passed with overwhelming support.

It seems just common sense that, of course, we are not going to prejudice ourselves in an international regime by saying we will add further burdens to us, as the developing world keeps spewing out bad air, polluting the waters, et cetera.

But in trade agreements, which are the focal point of most of our strong, bilateral and multinational relationships, we have completely ignored that point. So, on one hand, we are saying we have to get tough with these countries down there and make them start cleaning up their environment. But when it comes to the point where the rubber meets the road, where we are negotiating, we have leverage, and we want them to change behavior, we say it is not important. We are talking out of both sides of our mouth.

Mr. SARBANES. Will the Senator further yield?

Mr. REED. Yes.

Mr. SARBANES. Actually, at the very point when we have something we can use as leverage to get the higher standard, which is access into the American market, we are refusing to do it in order to achieve greater equalization of these environmental standards. I can't, for the life of me, understand why we are leaving the environmental matters out of the trade negotiations. I understand that it will not be the only thing in the trade negotiation; there will be other considerations as well. But why it should be, as it were, excluded outside of that parameter, I can't, for the life of me, understand.

Mr. REED. I am equally amazed—if I may reclaim my time —by leaving this out. Certainly the jewelry manufacturers in Rhode Island would say, "Put it in because I want them to clean their waste like I have to." Working men and women who have seen jobs lost because companies moved out of their communities would say, put it in. But my suspicion is that many people who are promoting this legislation are supportive of those multinational corporations who say: Listen, we want to avoid environmental policy because we want to get our production out of the United States and get into these countries, and we don't want them to have tough environmental standards.

Mr. SARBANES. Will the Senator yield further on that point?

Mr. REED. Yes.

Mr. SARBANES. That leads to this: Many people have said these are not really trade agreements that are being negotiated, or the impetus for them is not trade; it is investment. These are investment agreements. Among other things, a result of these agreements is extended protection for American investment in other countries; in other words, as the Senator said, for the multinationals to be able to establish their production abroad rather than in this country. Well, of course, if they are going to do that, then they don't want the higher environmental or working-condition standards.

Mr. REED. Again, I indicate that the Senator, I think, is absolutely right. Let me give an example within the text of the agreement. Part of the negotiating objectives is to develop internationally agreed rules, including settlement procedures, which are consistent with the commercial policies of the United States. So when it comes to commercial law, dispute resolution, we want our American laws down there because they are balanced, fair, they work, are effective, and are comfortable to the investors going to these countries.

I daresay, if we tried to substitute our ideas consistent with the environmental policy of the United States, we would draw the unalloyed opposition of the proponents of the fast-track procedure. In our view, I believe environmental quality is one important factor in terms of economic competition between our country and other countries. So, in effect, I think you are right. I think that the thrust of this agreement is that it is unbalanced. You and I—I will speak for myself—we believe that we have to have sensible rules about investment.

We have certain guarantees that our investors are protected. We have to have protection for intellectual property. We have to have protections for dispute settlement. We certainly don't want to have a situation where American companies go into a foreign land, make investments, and then can't repatriate their profits or, in fact, go to court and solve commercial disputes. That is fine. But we have to take the next step. We also have to negotiate with those countries so that their environmental policies are not inconsistent with ours and at least move toward an international standard.

Mr. SARBANES. If the Senator will yield, I agree with the Senator completely. I think all of the items that he mentioned in terms of resolving commercial disputes, repatriation of earnings, and so forth obviously have to be part of a negotiating effort. But the environmental considerations should also be a part of the negotiating effort.

I think that is all the Senator's amendment seeks to do. It doesn't seek to displace those other goals or objectives. It simply seeks to add to them so that it becomes a part of the negotiating focus and so that environmental concerns will also be on the agenda instead of left off the agenda and not have so-called side agreements. We have been through those side agreements. We know full well—we did the same thing on environment and on worker conditions—we know full well that in both instances the side agreements don't amount to anything. Other things which are put right into the trade agreement become enforceable and have to be adhered to. If they are not adhered to, they are contrary to the trade agreement; the remedies that are provided for in the trade agreement go into effect. But they are not putting the environment and the working conditions on the same status, the same level.

Mr. REED. The Senator from Maryland is absolutely correct. Recognize that the major international environmental issues which we face—not alone, but collectively as a world community—are significant: global climate change, which we were talking about recently; ozone depleting substances, which have affected all of us around the world; reduction in ship pollution of the ocean; international ocean dumping; transboundary movement of hazardous waste materials and disposal. What happens to all of this waste in countries where it is being produced? How does it move from one country to another?

All of these are critical issues. Yet, within a context and scope of this fast track agreement, they would be relegated, as the Senator from Maryland said, to side agreements at best. Our experience has been such that these side agreements are ineffectual in most cases, if not all cases. If we put them in the center of our concerns as a negotiating objective, not only will we make progress on these issues, but we will send a strong signal to all of our potential trading partners that they have to be prepared to come to the table and talk turkey about the environment and about how they will improve their environmental quality. That will result not only in a cleaner environment, which is an extremely noble objective and one that has very practical ramifications, but it will also help level that competitive playing field between those small businesspeople up in Rhode Island and Baltimore who are doing it already. All they ask us is to ensure, as we enter the world of international trade, that we try our best to bring up the standards of their competitors because they are their competitors. If we do that, then we leave it to them, their ingenuity, their imagination, and their skill to win the trade battle.

But essentially what we are doing today by taking those off the table is we are effectively dooming thousands of small businesses across this country to extinction.

Mr. SARBANES. If the Senator will yield further, I think the Senator made a very important point when he spoke about the contradiction in our approach. On the one hand, as he pointed out on the global warming issue and on the other environmental matters that he talked about, we are often engaged in negotiating with other countries to try to arrive at international environmental standards. Everyone says, "Well, we have to do that." On the other hand, when we come to trade agreements where we have an enhanced ability, since the entry into the American market is a very important objective that is sought abroad, we take the environmental matters out of that context altogether.

So the very place where we are most likely to be able to gain advances on environmental standards and at the same time, as the Senator points out, avoid placing our own producers in a disadvantageous position, we forswear dealing with those environmental questions.

It just boggles the mind that this approach is being taken in this legislation.

Mr. REED. I again agree wholeheartedly with the Senator. It is a situation in which, when we go to table, we have direct one-on-one negotiations, when we have as our leverage more liberal entry into our market, the largest market in the world, when we in fact have all of the force and the power behind these types of negotiations, we simply say we are not interested in the environment. Yet, when we go to international conferences, we say how not only must we all collectively clean up the environment, this Senate weeks ago said, by the way, the developing world, the world which will be the parties to the bilateral agreements, they must do their share because we can't do it alone.

Mr. SARBANES. Of course, when we go into the international environmental conferences, they say, "You are the biggest offender," because we are the most highly developed country and, therefore, we are put on the defensive in trying to get an agreement on the environmental standards. We are the most highly developed country, which is why in the trade negotiations they are so anxious to come into the American market, but we leave out of the trade negotiations the environmental issues. It just doesn't make sense. It is diminishing our ability, it seems to me, to negotiate comprehensive, fair trading arrangements that do not place our own producers at a significant disadvantage and do not create a downward pressure and downward movement with respect to protecting and enhancing the environment.

Mr. REED. I agree with the Senator. I also would suggest that these goals of better environmental quality, both here in the United States and worldwide, and increased international trade are not mutually exclusive.

Mr. SARBANES. The Senator made that point in the opening debate on this issue where the Senator spoke about, I thought in a very perceptive way, what was important. What are your goals? What are your objectives that are going to be focused upon in the trade negotiations? We all want to arrive at these trade agreements if we can do so. The question then becomes, What are the goals? What are the objectives? The Senator pointed out that the goals were too narrowly focused. This is a dramatic example of that narrow focus.

Mr. REED. I thank the Senator for that kind word. We have an opportunity to provide balance in this agreement. No one is objecting to the need for better support for investment overseas. No one is objecting to the adoption of commercial laws and agricultural policies that are better, and, in fact, according to this legislation, mirror U.S. policy.

But what we are saying is, if you simply create an environment for investment that leads to the opportunity for poor environmental quality—and I also add the environment—in which workers are hardly paid anything for hours of work—15 cents an hour is hardly something that is going to compete with American workers and never should be something that we would see as a goal. We should raise those. But if we do not do that, you have a one-sided agreement. You have an agreement which is a green light for capital to leave the United States and, as a result, move jobs and production to those other countries. This is detrimental to our small businesses, particularly some of our older industries.

I don't believe it is inevitable that our old industries, like the jewelry industry, the footwear industry, just inherently can't compete. They can't compete if we allow countries of the world to pay 15 cents an hour, with no real environmental enforcement, turning the other way when there are regulatory problems, et cetera. But if we sought today to insist in our trade agreements that environmental quality is raised, that respect for workers and adequate wages are the order of the day, then I think you would be surprised at the ability of our industry to compete.

That is what I believe we are trying to do here today, is put some balance in this legislation, recognize that unless we can enter into negotiations on all the critical issues that affect goods coming to the United States, we will never solve all of the issues that the Senator talked about.

Frankly, you can look at so many industries. The footwear industry is a classic example. As I mentioned in my opening remarks, growing up near Brockton, MA, that was the home of footwear manufacture for the whole world. There is nothing left there. It is not because the workers weren't good workers. It wasn't because the managers didn't understand managerial techniques.

We allowed countries to ship into our country goods that were produced at 10 cents an hour in conditions which we would not tolerate here in the United States of America. And unless we recognize that we will never get a handle on this issue of the trade deficit, the trade balances that the Senator talked about with Senator DORGAN.

Mr. SARBANES. Will the Senator yield further?

Mr. REED. Yes.

Mr. SARBANES. Of course, the assertion used to be made, well, if we lost jobs in certain industries because our technology was always advancing, we would be out doing the more complex, complicated production techniques and therefore we would gain jobs in those industries. And if you think about it, there is something to that theory.

But what has happened, in my perception, that undercuts that theory and why we are running these large trade deficits as a consequence is, first of all, as capital moves freely, capital moves into these undeveloped countries where there are no environmental standards and there are no real working conditions. So then you have people who are working 11, 12 hours a day for 15 cents an hour but the machines they are working on, because the capital has come in, are the same machines that people would be working on in this country.

And so the ability of capital to move that way makes it even more imperative that these environmental and working condition issues be included within the trade negotiations.

Furthermore, even if the capital does not move, as it were, voluntarily, some of these countries are demanding that it move as a condition for having any trade. China has made it very clear that companies have to bring in their top-line technology and investment so that they will then be the producers at the next economic turn.

So in order to get a contract, our people get a short-term contract, they agree as part of selling the goods that they are also going to move in the technology and the investment which then makes it possible for them to produce the goods the next economic go-round. So no longer will we not be able to sell to them, but it is my prediction they will then become our competitors in other markets as well. So we are being, as it were, coerced into, in effect, providing technology, and yet we are told, well, we can't have as part of the trade negotiation evening up the environmental and the worker landscape, economic landscape.

Mr. REED. Again, the Senator is absolutely perceptive about these particular issues. I noted before the article in today's New York Times about Nike and Vietnam and one of the officers of Nike indicated that the factory that was inspected was "among the most modern in the world," in fact directly competitive, "but there are a lot of things they could get better," according to the spokesman. But the point the Senator makes is well taken. This is not some old rattrap that was built in the 1930's and has some ad hoc machines there. This is a modern facility. It is a modern facility, the best technology to produce footwear, but it is obvious from this report no thought or concern was there to protect the workers to do the things we insist must be done in our factories.

So the Senator is absolutely right. So far as the new machines to make the product cheaper, better, faster, of higher quality, they are there, but all of the other concerns that go to the bottom line of any company, environmental quality being a major one, they can be avoided, and that is what we are facing.

I believe that unless we elevate environmental considerations to a major negotiating objective, not only will we see the further deterioration of the world's environment, not only will we be in a situation where we go to international conferences with the rest of world asking us to do more and more and more to raise our standards, making us less competitive, we are going to see the impact in our trade balance dramatically and directly. This is not about altruism alone. This is not about ecopolitics. This is not about sensitivity to the environment alone. It is all of those things, but it is something else. It is something about having a system of trade laws which recognizes the important bottom line impact of environmental quality here and with respect to our trading partners.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

(The remarks of Mr. WARNER pertaining to the introduction of S. 1486 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, let me start out by saying that I am a strong supporter of the environmental laws. Frankly, I would be willing to put my record as such up against any other Member of the U.S. Senate. And, as a supporter of environmental laws, I am, of course, anxious to see other countries, especially the developing countries, adopt similar policies to protect and strengthen the environment. But, having said that, I must say that I am forced to oppose the amendment offered by our distinguished junior Senator from Rhode Island.

His proposal would include authority, under fast track, to negotiate environmental standards and enforce those standards through trade sanctions. Fast track was never intended as a means to rewrite fundamental aspects of our domestic laws, such as the environmental laws. I would point out that the basic rule of international trade is, of course, one of nondiscrimination. Where our laws fail to meet that test, and do not otherwise benefit from an exception to a trade agreement, we are obliged to eliminate the discriminatory aspects of our law. That does not mean we have to weaken our laws. It does not mean that we have to lower our standards. It simply means that our laws have to treat imported goods and services as they do competing U.S. products, in terms of the applicable taxes, the regulatory standards, and the other conditions of sale.

Fast track was designed solely for the purpose of allowing, when needed, the conforming of our laws to our trade agreement obligations and the basic rule of nondiscrimination. The purpose of fast track is not to craft legislation or regulatory standards from whole cloth, and then run them through the legislative process under the guise of a trade agreement.

I would have thought that all sides in the debate over trade and the environment could agree on that much. This bill would not allow the President to negotiate trade agreements that either raise or lower our environmental standards.

I would, of course, point out that the President does have that general authority. And of course any agreement reached by his negotiation is subject to the normal process of the Congress.

Mr. SARBANES. Will the Senator yield on that point? Is the normal process that we would be able to amend it?

Mr. ROTH. That is correct. The normal process would be that it would be subject to amendment.

Mr. SARBANES. So what we are doing here with the fast track is denying the normal process?

Mr. ROTH. Let me point out to the distinguished Senator from Maryland that since 1974 it has been the practice and policy of the Congress to give the President authority to negotiate agreements with the assurance that whatever he negotiates, so long as it meets the goals, the objectives of the legislation, can be brought to the Congress to be acted upon without amendment. So it is a special exception that has been used for purposes of trade negotiation.

And there is a very good reason for that. The good reason for that is, if we go way back, I think it was in 1974, it became obvious that if we were going to continue to lower barriers to open the opportunity to trade, that some device had to be made to make certain that what the President negotiated would be considered by the Congress and that there would be a vote upon it. And that is exactly what has been done, down through the years since 1974. It has been the practice to give the President authority to negotiate, setting forth the goals and objectives of those negotiations and with the assurance that he could tell the other countries that that agreement would come to the Congress and be voted.

So, yes, it is an exception, a special process to meet the conditions. I would point out that it seems to me, with all the problems we have, our economy is doing extraordinarily well today, and has been for the last 7 years. We have the lowest unemployment. Inflation is down. I think something like 30 percent of our growth is dependent upon exports. So I think it has been a worthwhile policy and one that ought to be continued.

In the past, Democratic Congresses have given it to Republican Presidents and I propose that this Republican Congress give a Democratic President the same authority.

Mr. SARBANES. If the Senator will yield just further for 1 minute, it is since 1975 that our trade balance has deteriorated in this extraordinary fashion. I understand the point. Everyone says we have been doing this. The consequence of doing this is—contrary to the whole period prior to then, when we ran modest surpluses—we have now been running these very deep deficits. And the consequence of doing that is that we are now a debtor nation. I defy anyone to say that this is a welcome trend, in terms of the U.S. economic position worldwide. We have gone from being the largest creditor nation in the world to now we are the largest debtor nation, and at the end of this year we will be a debtor nation to the tune of $1 trillion.

Mr. ROTH. I would just say to my distinguished colleague, that our economy has been doing extremely well and has been for the last 7 years. So we must be doing something right.

Yes, the deficit joint account has risen in amount. But at the same time, we are enjoying a growth, a prosperity without inflation, with very low unemployment. So I think we are doing something right and I think it is important to ensure that the economy continues to grow and prosper. I think that means it is important that we give this President, as we have past Presidents, the necessary authority for fast track.

Let me point out once again that fast track was designed solely for the purpose of allowing us, when needed, to conform our laws to our trade agreement obligations and the basic rules of nondiscrimination.

The purpose of fast track is not to craft legislation or regulatory standards from whole cloth and then run them through the legislative process under the guise of a trade agreement. As I said earlier, I would have thought that all sides in the debate over trade and environment could, indeed, agree on that much. This bill would not allow the President to negotiate trade agreements that either raise or lower our environmental standards. I believe that ensures that fast track will only be used for the purpose for which it was originally intended, implementing trade agreements, and not authorizing a departure from the ordinary course of Senate deliberations that is absolutely necessary to achieve that end.

Mr. President, I yield the floor.

Mr. REED addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Rhode Island.

Mr. REED. Mr. President, if I may briefly comment upon the amendment. First, I recognize certainly the strong commitment of the Senator from Delaware to environmental quality in the United States. Indeed, because of his commitment and the commitment of many of my colleagues, we have environmental laws which are significant, which provide for high quality in our country. But the problem is that our foreign competitors do not have anything close to these laws in many, many countries, particularly countries with which we are endeavoring to establish bilateral trade relationships.

I agree with the Senator that the purpose of the fast-track procedure is to conform our laws to the negotiated results that the President achieves with our trading partners. I also believe and concur with the Senator that there is no attempt to lower or diminish our environmental laws.

Simply stated, what my amendment would do is ask the President to go out and try to bring up, as best he can, foreign environmental laws to our laws. So, in effect, we would be asking him to go out and take what we have done in the United States and try to apply it to another country, not simply because of its decency, its correctness in an intellectual way, but because of its profound impact in the pattern of trade between our country and other countries of the world.

It is interesting in other areas of this underlying legislation, we are quite specific in directing the President to do just that: go out and bring up the laws of our potential trading partners to our level. For example, in the section with respect to trade in services, we quite specifically direct the President to "develop internationally agreed rules, including dispute settlement procedures, which are consistent with the commercial policies of the United States."

I would be very happy if we had language like this that would say bring it up to the environmental policies of the United States. That is the point that I am trying to make. I would be very happy if we changed not one environmental law of the United States pursuant to fast track, that we did not try to diminish or decrease any of our environmental laws, but we simply ask the President to try to bring up their standards somewhere near to our standards.

Not only would I be happy but, again, returning to the very strong, in my mind, analogy to my home State, I would be very happy if I could go back to my jewelry manufacturers—these are small companies; many of them have family connections over long, long periods of time where fathers and mothers have passed it on to sons and daughters—I would be very happy if I could tell them our fast-track agreement has resulted in increased environmental standards so that they are not exactly like the United States, but no longer will you have to provide pretreatment of your wastewater and then see competitors around the world simply dumping raw solvents into municipal wastewater systems. Not only would you have to provide ventilation for your workers, but other entrepreneurs will have to try to do the same thing.

If we do that, I don't think it is violative of the spirit or the letter of fast track, but it will produce a much more even, competitive playing field for our manufacturers versus our potential trading partners.

So I, again, urge that the Senate adopt this amendment that would move environmental quality to the center of negotiations as a principal negotiating objective, not because it is an altruistic noble goal alone, but because it impacts dramatically on the bottom line of American companies and foreign companies and, in that sense, should be part of our trading policy, should be a key goal which our President is seeking to achieve in any negotiations. I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, let me start out by saying that any agreement that raises environmental standards in a foreign country does not, of course, need fast-track authority because it does not need any authority. To make environmental standards subject to fast track, therefore, means that changes to United States environmental laws would be subject to an up-or-down vote with no amendments. Frankly, I am too much of a supporter of our standards to allow them to be changed in this manner.

Let me point out that, in any event, as I did make some mention, the President does have authority now to negotiate whatever he chooses in the area of environmental laws. Of course, under the Constitution, he is responsible for negotiating international agreements, or he could negotiate agreements that raise standards abroad or at home, or lower, such as he chooses.

But once he reaches an agreement with another country or countries, if it affects domestic law he, of course, has to bring it to Congress for action. Of course, under the ordinary process, that legislation can be amended. It does seem to me that, as a general rule, whether it is environmental, health, safety or whatever, we do want to have the process be the normal process where a matter comes up in both Houses and can be amended according to the rules of either House.

I point out that if someone wants to have fast track in a particular area beyond trade, that can be done. We had, as a matter of fact, given what is, in effect, fast track to base closing, because it was decided that it was important in order to close any bases that the executive branch propose what bases would close and Congress could vote it up or down but not amend. So we made another exception in that case.

It can also be pointed out that somewhat the same was done in respect to the Budget Committee. The budget has to be acted upon within a certain number of hours. There can be some amendments, but it is very limited compared with what normally is the process in the U.S. Senate.

Mr. REED. Will the Senator yield?

Mr. ROTH. Yes.

Mr. REED. I understand the Senator's point—it is very well taken—about the procedures. In a sense, it might prove too much. The idea that we can do things outside of fast track raises or begs the question why we do certain things within fast track. Why, for example, are we saying let's make foreign laws with respect to commercial practices consistent with our laws, when, in fact, when it comes to the environment, we are saying, "Oh, no, don't include environment in this same context"?

I think perhaps the logic might be that some people either feel the environment is not important to international trade—and I think our discussions tonight should have indicated it is very important, indeed crucial—or others are simply saying we want a trade agreement, an arrangement with a foreign country which will allow us all the benefits of commercial practice in the United States, all the protection of intellectual property laws, all the protections for capital investment but none of the burdens, if you will, of high-quality environmental laws.

Again, I just can't understand, with respect, why we can't include environmental conditions as we have otherwise.

Mr. ROTH. Mr. President, the distinguished chairman of the Appropriations Committee desires to be recognized at this time.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I thank the Chair. And I thank the distinguished Senator from Delaware.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

Mr. STEVENS. Mr. President, I come to the floor to make a statement concerning the bill that has been approved by—really an amendment approved by the Appropriations Committee. This afternoon we met, and the Appropriations Committee has authorized me—and Senator BYRD—to present an amendment to the District of Columbia appropriations bill. It is before the Senate. And this will be an amendment in the nature of a substitute.

We had hoped to be able to proceed at this time and get an agreement with regard to that. I have asked the distinguished Democratic leader to join me. And I have discussed the matter with our leader.

The difficulty is that several Members still want to read over portions of that proposed amendment before we seek to proceed on it. After discussing it with the distinguished Democratic leader, I think that is the better part of valor.

I had previously made the announcement that we would offer it tonight and hope to have debate tonight and vote tomorrow. We have a continuing resolution that expires tomorrow evening. But if the Democratic leader agrees, I think we will just hold off, and it would be the intention of the leadership to try and move to bring this matter before the Senate tomorrow, as I understand it, sometime around 1 or 1:30 tomorrow afternoon.

If that meets with the Democratic leader's approval, we will just not proceed tonight.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, first of all, let me commend the distinguished chairman for the work that they have put into this effort. I must say, this has moved us farther than I would have thought we could have gone in the time that we have had.

These are very difficult issues, very controversial in some respects. I think the chairman and the ranking member have done a very good job. I intend to support the work product at the appointed time. But it is multihundred-pages long, and we have, I think, a need to look through it, not necessarily as much for the issue content as it is the grammatical content. And we are doing that now.

I think we will be ready to have a vote on it one way or the other in early afternoon. Senator LOTT and I have consulted with the distinguished chairman. I personally would be prepared to go to a vote early afternoon. I think we can accommodate that schedule. So I think the distinguished chairman's recommendation is a good one. I hope we can work in good faith in the remaining hours tonight to be able to be ready to have that vote early tomorrow afternoon.

Mr. STEVENS. Mr. President, I thank the distinguished Democratic leader. Because of the expiration of the continuing resolution tomorrow night, and the desire of Members not to be here next week on matters that would require votes, I hope that we will be able to get to it tomorrow, and get it to the House in time for the House to consider it and dispose of it. We may face this bill coming back to us with an amendment from the House before we are through tomorrow. So it would have been my wish that we could have done it tonight, but under the circumstances we will defer until tomorrow.

I thank the Chair, and I thank the distinguished Senator.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO JOHN LUNDY

Mr. LOTT. Mr. President, today is not simply the end of the 1st session of the 105th Congress. For me, this day is one that brings both new opportunities and old memories. Today marks the end of John Lundy's 7 years of service to me, first as my administrative assistant and later as my chief of staff. He has also served the great State of Mississippi.

To truly understand John and his impact on others, we must go back to his roots. John was raised on a farm in the small, rural town of Leland, MS. This upbringing taught him the meaning of community and the importance of family. He is a proud Mississippian, and still refers to the Delta as "God's Country." John graduated from Mississippi State University with a degree in agriculture—I guess he couldn't get into Ole Miss.

He then moved to Washington shortly thereafter and found a job on the staff of the Mississippi delegation in the House of Representatives. He was single, young and full of ambition. Who would have guessed that he would be returning to Mississippi 7 years later with a wife, a new baby girl and a truck full of furniture?

When I asked John to join my staff, I knew he would be a quick study. He was. He quickly jumped into the legislative fires with both feet.

John also quickly became involved in the demands of Washington's political world, but he never lost his Mississippi style. Or his Mississippi perspective.

Mississippians have told me for years how much they enjoy coming to Washington to see John. He makes everyone feel comfortable—no formalities, no pretenses. John can comfortably sit next to a farmer from the Delta or a banker from the coast and listen to his or her concerns. Visitors from the State are delighted to have one of their own paying attention to their needs, knowing that the message is not going to fade away the moment they leave. Mississippians knew that John was an able steward of their concerns, that telling John was as good as telling me.

There isn't a farmer in the State of Mississippi that doesn't know John Lundy, either personally or by reputation. John's knowledge of our State's many agriculture communities is unmatched in Washington. He is respected for his understanding of the issues and his dedication to finding a fair and equitable solution for all.

Mississippi's agriculture community was indeed fortunate to have John Lundy in Washington during the 1996 farm bill debate. I found that, although John was my staff member, other Senators had adopted him as their key advisor on this bill. His tireless work on this very difficult and complex legislation brought him the respect of both the State and national agriculture community.

Most importantly, John has always put Mississippi first. No matter what the situation or how high the stakes, the needs of the State came first. We all know how easy it is to get caught up in both the glitter and the rat race of Washington, DC, but John's focus has always been hundreds of miles south of the beltway.

Mississippians brought him problems, and he found them solutions. Many years have gone by since John joined my staff, but my admiration for him has grown with each passing day.

Now the time has come for him to return to Mississippi, to take his young family back home. This past summer, he and his beautiful wife Hayley were blessed with a baby girl, Eliza, who John says "was born to be in Mississippi."

As the Lundy family makes their way back to Mississippi, I would like to thank them for being such an important part of my life. I cannot thank John enough for his many years of hard work and dedication. He certainly leaves big shoes to fill. His quiet humility and generous spirit will be missed by my entire staff. I will miss his guidance and friendship.

John, I wish you nothing but the best of luck in the future, May you and your family be richly blessed in the coming years.

NOMINATION OF RAYMOND C.FISHER TO BE ASSOCIATE ATTORNEY GENERAL

Mr. LEAHY. Mr. President, I remain frustrated by the Republican leadership's unwillingness to consider and approve the President's nomination of Ray Fisher to the third-highest ranking position at the U.S. Department of Justice. Mr. Fisher has been stalled on the Senate Calendar for a month since being reported unanimously by the Judiciary Committee on October 9.

Ray Fisher is an outstanding lawyer and public servant. His record is exemplary.

Is this another example of a secret hold? There has been no explanation of justification for this delay and lack of action.

I recall when the Senate Republican leadership delayed the vote on the nomination of Eric Holder to the Deputy Attorney General position that we were told there were Senators with problems. I also remember that when I insisted on a rollcall vote on that nomination, after it had been stalled on the Senate Calendar for more than 3 weeks, the problems had all been resolved and the Senate confirmed Mr. Holder unanimously. One hundred Senators voted for that nomination.

I urge the Republican leadership to allow the Senate to confirm Ray Fisher to be Associate Attorney General of the United States.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry withdrawals and nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following bill:

S. 858. An act to authorize appropriations for fiscal year 1998 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

At 4:31 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2534. An act to reform, extend, and repeal certain agricultural research, extension, and education programs, and for other purposes.

H.R. 2631. An act disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45.

The message also announced that the House has passed the following bills, without amendment:

S. 813. An act to amend chapter 91 of title 18, United States Code, to provide criminal penalties for theft and willful vandalism at national cemeteries.

S. 1377. An act to amend the act incorporating the American Legion to make a technical correction.

At 4:54 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2264. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bill, previously received from the House of Representatives for the concurrence of the Senate, was read the first and second times by unanimous consent and referred as indicated:

H.R. 2647. An act to ensure that commercial activities of the People's Liberation Army of China or any Communist Chinese military company in the United States are monitored and are subject to the authorities

under the International Emergency Economic Powers Act; to the Committee on Banking, Housing, and Urban Affairs.

Pursuant to the order of the Senate of September 2, 1997, the following bill was referred to the Committee on Environment and Public Works for a period not to exceed 20 session days:

H.R. 1658. An act to reauthorize and amend the Atlantic Striped Bass Conservation Act and related laws.

MEASURES PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 2631. An act disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105-45.

The following measure was read the second time and placed on the calendar:

S. 1414. A bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on November 8, 1997 he had presented to the President of the United States, the following enrolled bill:

S. 858. An act to authorize appropriations for fiscal year 1998 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation To Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1998" (Rept. No. 105-145).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with amendments:

S. 156. A bill to provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe, and for other purposes (Rept. No. 105-146).

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 758. A bill to make certain technical corrections to the Lobbying Disclosure Act of 1995 (Rept. No. 105-147).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with amendments:

H.R. 1658. A bill to reauthorize and amend the Atlantic Striped Bass Conservation Act and related laws (Rept. No. 105-148).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with amendments:

H.R. 1658. A bill to reauthorize and amend the Atlantic Striped Bass Conservation Act and related laws (Rept. No. 105-149).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 927. A bill to reauthorize the Sea Grant Program (Rept. No. 105-150).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1213. A bill to establish a National Ocean Council, a Commission on Ocean Policy, and for other purposes (Rept. No. 105-151).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1354. A bill to amend the Communications Act of 1934 to provide for the designation of common carriers not subject to the jurisdiction of a State commission as eligible telecommunications carriers.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably one nomination list in the Navy which was printed in full in the CONGRESSIONAL RECORD of October 29, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that this nomination lie at the Secretary's desk for the information of Senators:

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of October 29, 1997, at the end of the Senate proceedings.)

In the Navy there are 1,304 appointments to the grade of lieutenant commander (list begins with Matthew B. Aaron) (Reference No. 789.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Ms. MOSELEY-BRAUN:

S. 1457. A bill to amend the Harmonized Tariff Schedule of the United States to extend to certain fine jewelry certain trade benefits of insular possessions of the United States; to the Committee on Finance.

By Mr. FAIRCLOTH:

S. 1458. A bill to restrict the use of the exchange stabilization fund; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself, Mr. JEFFORDS, Mr. MURKOWSKI, Mr. CONRAD, Mr. HARKIN, Mr. KERREY, Mrs. FEINSTEIN, Mrs. BOXER, and Mr. JOHNSON):

S. 1459. A bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind and closed-loop biomass; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 1460. A bill for the relief of Alexandre Malofienko, Olga Matsko, and their son Vladimir Malofienko; to the Committee on the Judiciary.

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

S. 1461. A bill to establish a youth mentoring program; to the Committee on the Judiciary.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 1462. A bill to reauthorize the Delaware and Lehigh Navigation Canal National Heritage Corridor Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KOHL:

S. 1463. A bill to change the date for regularly scheduled Federal elections and establish polling place hours; to the Committee on Rules and Administration.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. MACK, Mr. ABRAHAM, Mr. CONRAD, Mr. LIEBERMAN, Mr. MURKOWSKI, Mrs. BOXER, Mr. ROCKEFELLER, Mrs. FEINSTEIN, Mrs. MURRAY, and Mr. DURBIN):

S. 1464. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes; to the Committee on Finance.

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

S. 1465. A bill to consolidate in a single independent agency in the executive branch the responsibilities regarding food safety, labeling, and inspection currently divided among several Federal agencies; to the Committee on Governmental Affairs.

By Mr. ABRAHAM (for himself, Mr. HUTCHINSON, and Mr. COATS):

S. 1466. A bill to amend the Public Health Service Act to permit faith-based substance abuse treatment centers to receive Federal assistance, to permit individuals receiving Federal drug treatment assistance to select private and religiously oriented treatment, and to protect the rights of individuals from being required to receive religiously oriented treatment; to the Committee on Labor and Human Resources.

By Mr. SMITH of Oregon:

S. 1467. A bill to address the declining health of forests on Federal lands in the United States through a program of recovery and protection consistent with the requirements of existing public land management and environmental laws, to establish a program to inventory, monitor, and analyze public and private forests and their resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:

S. 1468. A bill to provide for the conveyance of one (1) acre of land from Santa Fe National Forest to the Village of Jemez Springs, New Mexico, as the site of a fire sub-station; to the Committee on Energy and Natural Resources.

S. 1469. A bill to provide for the expansion of the historic community of El Rito, New Mexico, through the special designation of five acres of Carson National Forest adjacent to the cemetary; to the Committee on Energy and Natural Resources.

By Ms. MIKULSKI:

S. 1470. A bill to amend the Internal Revenue Code of 1986 to clarify that certain school bus contractors and drivers are not employees; to the Committee on Finance.

By Mr. GRAHAM:

S. 1471. A bill to prohibit the Secretary of Health and Human Services from treating any medicaid-related funds recovered as part of State litigation from one or more tobacco companies as an overpayment under the medicaid program; to the Committee on Finance.

By Ms. MOSELEY-BRAUN (for herself and Mr. KENNEDY):

S. 1472. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for public elementary and secondary school construction, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 1473. A bill to encourage the development of a commercial space industry in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. D'AMATO:

S. 1474. A bill to suspend temporarily the duty on certain high tenacity single yarn of viscose rayon; to the Committee on Finance.

S. 1475. A bill to suspend temporarily the duty on certain twisted yarn of viscose rayon; to the Committee on Finance.

By Mr. D'AMATO (for himself, Ms. MOSELEY-BRAUN, and Mr. COCHRAN):

S. 1476. A bill to authorize the President to enter into a trade agreement concerning Northern Ireland and certain border counties of the Republic of Ireland, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO:

S. 1477. A bill to amend the Harmonized Tariff Schedule of the United States to provide that certain goods may be reimported into the United States without additional duty; to the Committee on Finance.

S. 1478. A bill to suspend temporarily the duty on certain viscose rayon yarn; to the Committee on Finance.

S. 1479. A bill to suspend temporarily the duty on certain other single viscose rayon yarn; to the Committee on Finance.

By Ms. SNOWE (for herself and Mr. BREAUX):

S. 1480. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration to conduct research, monitoring, education and management activities for the eradication and control of harmful algal blooms, including blooms of Pfiesteria piscicida and other aquatic toxins; to the Committee on Commerce, Science, and Transportation.

By Mr. DEWINE:

S. 1481. A bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide for continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements; to the Committee on Finance.

By Mr. COATS:

S. 1482. A bill to amend section 223 of the Communications Act of 1934 to establish a prohibition on commercial distribution on the World Wide Web of material that is harmful to minors, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI:

S. 1483. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of tax-exempt bond financing of certain electrical output facilities; to the Committee on Finance.

By Mr. BINGAMAN:

S. 1484. A bill to increase the number of qualified teachers; to the Committee on Labor and Human Resources.

By Mr. DASCHLE (for himself and Ms. MOSELEY-BRAUN):

S. 1485. A bill to require the Secretary of the Treasury to mint coins in commemoration of Associate Justice Thurgood Marshall, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WARNER (for himself and Mr. STEVENS):

S. 1486. A bill to authorize acquisition of certain real property for the Library of Congress, and for other purposes; to the Committee on Rules and Administration.

By Mr. CRAIG (for himself, Mr. LEVIN, Mr. MCCAIN, and Ms. LANDRIEU):

S. 1487. A bill to establish a National Voluntary Mutual Reunion Registry; considered and passed.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1488. A bill to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes; to the Committee on Energy and Natural Resources.

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

S. 1489. A bill to provide the public with access to outfitted activities on Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS:

S. 1490. A bill to improve the quality of child care provided through Federal facilities and programs, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. LAUTENBERG, Mr. DURBIN, Mr. REED, and Mr. KERRY):

S. 1491. A bill to increase the excise tax rate on tobacco products; to the Committee on Finance.

S. 1492. A bill to amend the Public Health Act and the Federal Food, Drug and Cosmetic Act to prevent the use of tobacco products by minors, to reduce the level of tobacco addiction, to compensate Federal and State Governments for a portion of the health costs of tobacco-related illnesses, to enhance the national investment in biomedical and basic scientific research, and to expand programs to address the needs of children, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. Res. 148. A resolution designating 1998 as the "Onate Cuartocentenario", the 400th anniversary commemoration of the first permanent Spanish settlement in New Mexico; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. THOMAS, Mr. KERRY, Mr. SMITH of Oregon, Mrs. MURRAY, Mr. HAGEL, Mr. GRAMS, Mr. ROBB, and Mr. ROTH):

S. Res. 149. A resolution expressing the sense of the Senate regarding the state visit to the United States of the President of the People's Republic of China; to the Committee on Foreign Relations.

By Mr. MCCAIN:

S. Con. Res. 66. A concurrent resolution to correct the enrollment of S. 399; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MOSELEY-BRAUN:

S. 1457. A bill to amend the Harmonized Tariff Schedule of the United States to extend to certain fine jewelry certain trade benefits of insular possessions of the United States; to the Committee on Finance.

HARMONIZED TARIFF SCHEDULE AMENDMENT ACT OF 1997

Ms. MOSELEY-BRAUN. Mr. President, today I am pleased to introduce a bill to amend the Harmonized Tariff Schedule of the United States to extend certain trade benefits to fine jewelry produced in the U.S. Virgin Islands, Guam, and American Samoa.

Under current law, additional U.S. Note 5 to Chapter 91 of the Harmonized Tariff Schedule provides limited duty-free treatment and duty refunds to certain watches and watch movements produced in the U.S. Virgin Islands, Guam, and American Samoa. The bill I am introducing today would also make certain articles of fine jewelry produced in these insular possessions, eligible for certain note 5 benefits, thereby significantly expanding economic opportunities for insular possession manufacturers and their workers. At the same time, this bill expressly provides that the extension of note 5 benefits to jewelry may not result in any increase in the authorized amount of benefits established by note 5.

This legislation will promote needed employment and economic development in the U.S. insular possessions, particularly the U.S. Virgin Islands, by providing insular possession manufacturers with greater flexibility in the use of certain existing trade benefits.

Mr. President, I ask unanimous consent that the entire text of the bill be placed in the RECORD.

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

S. 1457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the additional U.S. notes to chapter 71 of the Harmonized Tariff Schedule of the United States are amended by adding at the end the following new note:

"3.(a) Notwithstanding any other provision in additional U.S. note 5 to chapter 91, any article of jewelry provided for in heading 7113 which is the product of the Virgin Islands, Guam, or American Samoa (including any such article which contains any foreign component) shall be eligible for the benefits provided in paragraph (h) of additional U.S. note 5 to chapter 91, subject to the provisions and limitations of that note and of paragraphs (b), (c), and (d) of this note.

"(b) Nothing provided for in this note shall result in an increase or a decrease in the aggregate amount referred to in paragraph (h)(iii) of, or quantitative limitation otherwise established pursuant to the requirements of, additional U.S. note 5 to chapter 91.

"(c) Nothing provided for in this note shall be construed to permit a reduction in the amount available to watch producers under paragraph (h)(iv) of additional U.S. note 5 to chapter 91.

"(d) The Secretary of Commerce and the Secretary of the Interior shall issue such

regulations, not inconsistent with the provisions of this note and additional U.S. note 5 to chapter 91, as they determine necessary to carry out their respective duties under this note. Such regulations shall not be inconsistent with substantial transformation requirements established by the United States Customs Service but may define the circumstances under which articles of jewelry shall be deemed to be 'units' for purposes of the benefits, provisions, and limitations of additional U.S. note 5 to chapter 91.".

By Mr. GRASSLEY (for himself, Mr. JEFFORDS, Mr. MURKOWSKI, Mr. CONRAD, Mr. HARKIN, Mr. KERREY, Mrs. FEINSTEIN, Mrs. BOXER, and Mr. JOHNSON):

S. 1459. A bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind and closed-loop biomass; to the Committee on Finance.

WIND PRODUCTION TAX CREDIT LEGISLATION

Mr. GRASSLEY. Mr. President, I rise today to introduce important tax legislation for myself, Senator JEFFORDS, Senator MURKOWSKI, Senator CONRAD, Senator KERREY, Senator HARKIN, Senator FEINSTEIN, Senator BOXER, and Senator JOHNSON.

Our legislation extends the production tax credit for energy produced from wind. This legislation is similar to that which passed the Senate as part of the Senate's tax bill attached to the balanced budget reconciliation bill this summer. Unfortunately, it was dropped in conference between the House and the Senate, and did not become part of the Taxpayer Relief Act of 1997.

Since the Senate has acted favorably on this wind energy production tax credit legislation in the past, I would like to ask Senators to consider it again next year. I am introducing it this year because I want to make sure that it gets an opportunity for cosponsorship.

As we all know, our Nation's energy supply is both limited and controversial. However, energy produced from wind is clean, renewable and homegrown. There is nothing limited or controversial about this source of energy, the wind. Americans need only to make the necessary investments in order to capture it for power.

Our legislation extends the production tax credit and the focus on energy produced from wind through the month of June, 2004. Scientists blame excessive carbon dioxide for global warming. The chief sources of environmentally dangerous carbon dioxide are emissions from the burning of fossil fuels. Obviously, we need other safer sources. Wind energy is clean, abundant, and a U.S. resource that produces electricity with virtually no carbon dioxide emissions.

Every 10,000 megawatts of wind energy can reduce carbon dioxide emissions by 33 million metric tons. Today, our Nation produces only 1,700 megawatts of wind energy. However, the American Wind Energy Association estimates that U.S. wind capacity can reach 30,000 megawatts by the year 2010. This is enough electricity to meet the needs of 10 million homes, while reducing pollution in every State in the Nation.

Americans naturally find abundant wind in every State in the Union. Wind is a homegrown energy. No foreign powers can control our source of wind energy. No American soldiers or sailors will ever need to fight in foreign wars to protect our supply of wind energy, as they must in the case of oil. For example, consider the Persian Gulf war. No supertankers will ever crack up in the sea and pollute our beaches because of energy produced from wind.

In short, wind energy is a good investment in the present and the future. Our legislation extends the successful wind energy production tax credit. It is a very successful way of promoting this source of energy. It is a cheap investment with high returns for ourselves, our children, our grandchildren and their grandchildren. The Senate needs to again pass this important legislation to ensure the wind energy production tax credit into the next century. I encourage all of my colleagues to cosponsor.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

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

S. 1459

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

SECTION 1. 5-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM WIND AND BIOMASS.

Paragraph (3) of section 45(c) of the Internal Revenue Code of 1986 (defining qualified facility) is amended by striking "1999" and inserting "2004".

Mr. JEFFORDS. Madam President, I enthusiastically join my colleagues in offering legislation that would allow wind and biomass energy to continue to advance as commercially viable renewable energy sources. This legislation will allow wind and biomass energy to play a competitive role in the growing domestic energy market.

Through the Energy Policy Act of 1992, Congress established a mechanism to increase investments in new or emerging energy technologies. In 2 years, this credit will expire. Companies developing wind energy, who require a 2–3 year lead time for installing new wind machines, were not able to take advantage of the available credit before it expired. Congress should extend the credit program to allow continued efforts to increase production of electricity from wind and biomass.

To date, significant progress has been made in the development of wind energy, and this industry is poised to further increase its production capacity. With support from Congress through research and development funding and tax credits wind energy has become more competitive and the technology has improved in designs and operation. Generation costs from wind have dropped from 25 cents per kilowatt hour in 1980 to a low of 7 cents per kilowatt hour today for wind power. Investments in new technological improvements will further reduce the cost of this energy source and will enable the industry to play a key role in the new competitive electric utility environment.

Likewise, biomass energy technologies, which are derived from any plant material and some forms of animal waste, are continuously improving in performance and cost.

Madam President, I want to emphasize the importance of using renewable energy to meet our growing demand for energy. Renewable energy is important for several reasons: First, it does not produce harmful, life-threatening pollution; second, it is capable of providing ample energy to meet the huge amount of demand that is forecasted; third, it increases our energy and economic security; and fourth, since more than 2 billion people in the world live without electricity, it creates jobs in the United States.

I thank my colleagues for working with me to extend the credit program for producing energy from wind and biomass.

Mr. CONRAD. Mr. President, I rise today to join Senators GRASSLEY and JEFFORDS as a proud cosponsor of legislation to extend the wind energy production tax credit. I want to commend the primary sponsors of this legislation for their leadership in developing this bill. The bill we are introducing today takes an important next step in encouraging the development of this very important source of renewable energy. Wind energy offers great promise for putting America on the road to greater energy independence and economic prosperity.

I have been a long-time supporter of developing additional sources of renewable energy, particularly energy from wind and crops. In 1993, Senator GRASSLEY and I introduced S. 1180, the Wind Energy Incentives Act of 1993, to provide additional incentives for developing our wind energy resources. My home State of North Dakota has abundant wind energy resources, more than any other State. I have often referred to North Dakota as the "Saudi Arabia of wind energy."

I strongly support encouraging development of additional sources of energy because I am extremely concerned that the United States continues to face a serious energy problem. While we do not see the long gas lines of the 1970's, today we import more than half the oil

we use, up from about 30 percent in 1974. While we no longer depend on just a few sources for that oil, it remains a dangerous dependence, and makes up a significant portion of our trade deficit.

In 1992, Congress passed and the President signed the Energy Policy Act, which took a number of important steps toward developing our own energy resources here at home. One provision was the production tax credit of 1.5 cents per kilowatt hour for wind energy. This credit is meant to reduce the cost of these renewable energy sources to make them competitive with conventional energy sources. It is also meant to encourage the development of these new resources to the point where economies of scale enable them to compete in their own right.

The wind production tax credit established by the 1992 Energy Policy Act is set to expire in just 2 years. However, the financing and permitting required for a typical new wind facility requires 2 to 3 years of lead time. Because the wind production tax credit will expire in 2 years without the extension we are introducing today, investment funds to develop new wind projects are drying up, unnecessarily halting future project planning. Additionally, the cost of wind energy production has dropped significantly from its earlier days, and as the technology matures the cost will continue to drop.

I urge my colleagues to join us in taking this step toward energy independence by cosponsoring this legislation.

Mrs. FEINSTEIN. Mr. President, I rise this afternoon to cosponsor legislation introduced by my colleagues Senator GRASSLEY and Senator JEFFORDS to extend the production tax credit, a tax incentive to encourage wind-generated energy.

Today, California's Tehachapi-Mojave area is the world's largest producer of wind-generated electricity. The New York Times has described the area's 5,000 electricity producing wind turbines as a vision of the future. Wind generation energy provides a renewable, clean, environmentally sound source of energy in California. I am pleased to lend my support to the Grassley-Jeffords legislation.

The production tax credit provides a 1.5 cent tax credit for each kilowatt of electricity produced in the United States during the first ten years a new wind energy production facility is in service. The legislation is an inexpensive way to encourage clean, efficient and sustainable energy future for our children and grandchildren.

Under current law, the production tax credit is scheduled to expire in 1999, complicating the planning and development of new wind energy generation facilities. New wind energy facilities, like any major construction project, take several years to move from planning to operation. Without the certainty of the credit after 1999, investors will be reluctant to commit funds for the development of new wind energy facilities. Industry officials have already noticed a decline in investment, which can be attributed to the credit's uncertainty.

Wind energy is the world's fastest growing energy technology. The amount of wind-generated power has increased by 25 percent each year during the last 5 years, growth which is expected to accelerate through 2010. Wind-generated energy is expected to become a $400 billion industry worldwide by 2020. However, most of the growth is occurring in Europe, rather than here in the United States. No new wind power generation development has occurred in the United States since 1991.

I am pleased that California companies, including those in south and central California, are among the world's leading manufacturers and developers of wind energy facilities. If domestic firms are able to capture even one-fourth of the jobs associated with serving the growing market, the growth would support approximately 150,000 jobs. These are high-technology engineering jobs, traditional areas of strength for California, providing a solid economic foundation.

The Grassley-Jeffords legislation will have important environmental consequences as well. The President's initiative against global warming includes $5 billion program of tax incentives, which could include the extension of the production tax credit. Coal is currently the Nation's largest source of power, providing 55 percent of the Nation's energy needs. However, coal has the highest level of carbon dioxide, when compared with the amount of electricity produced. Wind production energy is a significantly cleaner alternative, helping to decrease carbon dioxide emissions. Wind energy could supply 30,000 megawatts of energy by 2010, rather than current 1,700 megawatts today, reducing carbon dioxide emissions by 18%. These are cost-effective steps for our energy future.

I am pleased to join Senator GRASSLEY, who has demonstrated his long-standing commitment to this important issue, and cosponsor the Grassley-Jeffords legislation. Without an extension, I am concerned wind energy production will not be able to develop, undermining economic, environmental and clean air goals. Wind generation energy provides a renewable, clean, environmentally sound source of energy for California's future. I am pleased to lend my support to the legislation.

By Mr. FAIRCLOTH:

S. 1458. A bill to restrict the use of the exchange stabilization fund; to the Committee on Banking, Housing, and Urban Affairs.

THE ACCOUNTABILITY FOR INTERNATIONAL BAILOUTS ACT OF 1997

Mr. FAIRCLOTH. Mr. President, last week, the Treasury Department announced that it planned to use $3 billion from the exchange stabilization fund for a bailout of Indonesia. This fund was established in the 1930's to protect the U.S. dollar. It was not designed to be the personal piggy bank of the Secretary of the Treasury to bail out other countries whenever he desires.

The legislation I am introducing would require that, when this fund is used to be part of an international bailout in excess of $250 million, such use would require congressional approval.

Using this fund for Indonesia is the same procedure that was used to bypass the Congress for the bailout of Mexico. At the time we were told that the emergency bailout of Mexico was needed because they were our neighbor, friend, and that economic instability would spill thousands of immigrants into the United States.

I find no such rationale for Indonesia. In fact, what is occurring is that we are seeing a tidal wave of bailouts coming our way from Asia.

Apparently, the need for the bailouts is greater than the resources of the IMF. This is the reason the United States has had to resort to taking money from our own reserves to bail out Indonesia.

In fact, the tidal wave has already started. The Philippines in July for $1 billion. Thailand for $16 billion in September. Now comes Indonesia for $23 billion in November. The price tag keeps getting bigger and we don't know where it is going to stop. The Treasury Secretary tried to keep us out of the first two bailouts—but the price tag is getting too big—now direct United States dollars are being called upon for the Asian bailouts.

This week Business Week is suggesting the price tag is as high as $100 billion. Who is next? South Korea, Malaysia? Perhaps China and Japan—whose banks are holding billions in bad loans?

What is really outrageous about this situation is that these are the very same countries that we have been running massive trade deficits for years.

With Thailand we have a $4.6 billion trade deficit. Indonesia a $4 billion deficit. Philippines a $2 billion deficit. South Korea a $1 billion trade deficit—and China and Japan are off the charts.

These are the same countries that have kept out U.S. imports with phony trade rules and insider deals. These are the same countries that have closed banking systems.

Indonesia, in particular, was so flush with cash apparently, that they could afford to funnel millions in campaign contributions to influence U.S. elections—and here we are, the United States, bailing them out. Is it any wonder that the average American worker

has no faith that the Federal Government in Washington cares about him or her.

We have got people living paycheck to paycheck in this country. We don't need to bail out foreign ministers, foreign banks and securities firms, and rich Wall Street bankers that lent too much money to developing nations.

The average American has to tell half his life story just to get a mortgage loan—and yet Wall Street is loaning billions to these Asian countries on the nod of some foreign finance minister.

Now the bill for the bailout is being handed to the U.S. taxpayer. I find it deplorable. The auto plant worker, the secretary, the small town banker—all are being asked to turn over their tax dollars so we can ship them to Asia.

I think President Clinton and Robert Rubin need to realize that Wall Street and Indonesia did not elect them—the people of the United States did, and that is who they own their loyalties to. They need to remember that.

Mr. President, I can promise you that in the next session of Congress—this will not continue. I plan to subject every foreign bailout dollar to congressional approval. This legislation is the first step in that process.

By Mr. LAUTENBERG:

S. 1460. A bill for the relief of Alexandre Malofienko, Olga Matsko, and their son Vladimir Malofienko; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. LAUTENBERG. Mr. President, today I am introducing legislation to provide permanent residency in the United States for 13-year-old Vova Malofienko and his family, residents of Short Hills, NJ. An identical bill is being introduced in the House of Represenatives today by Congressman STEVE ROTHMAN and Congressman BOB FRANKS. Vova Malofienko has leukemia from his having lived 30 miles from the Chernobyl nuclear reactor in Ukraine during and after the infamous disaster. His leukemia is in remission only because of the emergency medical treatment he's received in the United States.

Were Vova forced to return to Ukraine, the United States would be placing an innocent child near the front of the line on death row. Vova was one of eight children of Chernobyl who came to the United States in 1990—and when the seven others later returned to Ukraine, they died one by one because of inadequate cancer treatment. Not a child survived.

On behalf of the Malofienkos, I ask my colleagues for their invaluable support for this legislation. We are a compassionate nation that should open its heart to Vova and his family, who came in dire medical need.

Mr. President, I would like to take this opportunity to tell my colleagues a bit more about Vova and his family. Vladimir "Vova" Malofienko was born on 6/29/84 in Chernigov, Ukraine. His mother, Olga Matsko, was born on 9/29/59 in Piratin, Ukraine, and his father, Alexander Malofienko, was born on 12/25/57 in Chernigov, Ukraine.

Vova was only 2 when the Chernobyl reactor exploded in 1986 and exposed him to radiation. He was diagnosed with leukemia in June 1990 at age 6. Vova and his mother came to the United States later in 1990 on a B-1 visitor's visa so that Vova could attend a cancer treatment camp for children, sponsored by the Children of Chernobyl Relief Fund. Vova was invited to stay in the United States to receive more extensive treatment and chemotherapy. In November 1992, Vova's cancer went into remission. Vova's father, Alexander Malofienko, joined the family in 1992, also on a B-1 visa.

The Malofienko family is currently in the United States with extended voluntary departure through March 1998. Alexander Malofienko's second application for labor certification is pending before the New Jersey Department of Labor. The first application for labor certification was denied.

Vova and his family desire to remain in the United States because of the extraordinary health concerns facing Vova. Regrettably, as I mentioned earlier, Vova is the only survivor from a group of eight children of Chernobyl who came to the United States together in 1990. The seven other children returned to Ukraine and have since died. Now that Vova is in remission, it would indeed be tragic to return him to an environment which would once again endanger his life. The air, food, and water in Ukraine are contaminated with radiation that people residing there for several years have grown accustomed to, but which could be perilous to Vova's weakened immune system.

Furthermore, treatment available in Ukraine is not as sophisticated and up to date as treatment available in the United States. Before Vova came to the United States, no aggressive treatment for his leukemia had been provided. Although Vova completed his chemotherapy in 1992, he continues to need medical followup on a consistent basis, including physical examinations, lab work and radiological examinations, to assure early detection and prompt and appropriate therapy in the unfortunate event the leukemia recurs.

According to Dr. Peri Kamalakar, Director of the Valerie Fund Children's Center at Newark Beth Israel Hospital, where Vova has received care, Vova's cancer is considered high risk with a threat of relapse. He is also at risk to develop significant late complications secondary to the intensive chemotherapy he received, including heart problems and secondary cancers. Another significant risk is relapse in the bone marrow, testes, or central nervous system. Dr. Kamalakar has concluded that Vova's chance for a permanent cure is considerably better if he stays in the United States.

Every one of the risks to Vova's health would be magnified by what is only the recent emergence of the full effects of Chernobyl. Birth defects in the Chernobyl area have doubled. Thyroid cancer has increased 80 times—a rate too horrifying to comprehend. And the total number of children whose health will be at risk for the rest of their lives is over a million.

Vova Malofienko has been embraced by all those who know him for his grace, dignity, and courage. He has also gained national attention by assisting with the philanthropic efforts of the Children of Chernobyl Relief Fund. It would be extremely disruptive to him and his family, in addition to causing great financial and emotional hardship, if they are not allowed to remain together in the United States in order to protect Vova's health. I ask unanimous consent that the text of the bill be included in the RECORD.

Mr. President, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 1460

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

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Alexander Malofienko, Olga Matsko, and their son, Vladimir Malofienko, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Alexander Malofienko, Olga Matsko, and their son, Vladimir Malofienko, as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

[From the Star-Ledger, Newark, NJ, Oct. 9, 1997]

CHERNOBYL VICTIM FIGHTS TO STAY AND LIVE; LAUTENBERG WORKS TO WIN RESIDENCY FOR FAMILY

(By Allison Freeman)

A 13-year-old boy who contracted cancer from exposure to radiation after the Chernobyl nuclear disaster in Ukraine may get to remain in the United States.

Sen. Frank Lautenberg said yesterday that he will introduce legislation expressly to grant Vova Malofienko of Millburn and his family permanent residency.

Lautenberg plans to introduce the "emergency relief bill" during the week of Oct. 20, following the Columbus Day recess. In the spring, the senator pressured the Immigration and Naturalization Service to grant the Malofienkos a one-year emergency extension to stay in America.

Vova, whose cancer is in remission, could suffer a relapse if he returns to Ukraine because he is not used to the radiation-contaminated air, food and water, according to his physician, Dr. Peri Kamalakar of the Newark Beth Israel Medical Center. "My concern is, God forbid, he gets a relapse back in Ukraine. I do not think they have the facilities to give him the proper treatment to save his life," the doctor said.

Vova also received chemotherapy to treat his cancer, which puts him at a greater risk for leukemia or another malady if he is exposed to radiation, Kamalakar noted. "I feel it is very important for Vova's life to remain in this country."

Lautenberg yesterday expressed hope that the legislation will pass before the family's emergency visa runs out in April.

"I am introducing this bill not only to keep my promise to Vova and his family, but also to keep the promise to America," the senator said. "We are a compassionate nation that has to open our hearts and borders to all those like Vova who came here legally and in dire medical need."

Vova came to America in 1990 with seven other Ukrainian children, all sick from radiation exposure. Their trip to actor Paul Newman's camp in Connecticut was sponsored by the Children of Chernobyl Relief Fund of Short Hills, which airlifts medical treatment and supplies to children afflicted by the 1986 disaster.

The seven other children in the group all returned to Ukraine and have since died.

"They basically got a death sentence," Lautenberg said. "And I will never, ever let that happen to Vova."

Lautenberg said he is introducing the legislation now, six months before the family is forced to return to Ukraine, "to avoid the kind of last-minute life or death situation that the bureaucracy put the Malofienkos through before."

Vova yesterday said he is very happy the senator is introducing special legislation on his behalf and is "very grateful to him," but the serious 13-year-old said, "I do not know if it will be approved or not," so he did not want to get his hopes up.

"At first it was like a dream," said Vova's mother Olga Matsko, who received a phone call from Lautenberg's office yesterday afternoon. "How grateful I am to what the senator has done for our family."

Matsko, who uses her maiden name, said she only hopes that the bill passes in Congress. "I cannot believe that our hard fight is probably over."

Vova's family has been struggling to remain in America with both parents working full-time jobs and sharing a superintendent's job at their Millburn apartment building. Matsko works as an accountant during the day, and the father works as a mechanic for Lea & Perrins Inc. of Fair Lawn at night.

Alexander Malofienko, Vova's father, lost his job at Tetley Tea of Morris Plains last spring. He then had to find not only a job, but a company to sponsor him for his labor certificate so the family could remain in the United States.

He found a company to sponsor him, but his application got stuck in "gridlock" at the state Labor Department in Trenton, where there is a 30 percent increase in alien labor certificate applications, Lautenberg said. The department is one year behind in processing these applications, not enough time for the Malofienkos.

The labor certificate, once approved by the state, is then forwarded to the U.S. Department of Labor in New York for its review.

Joshua Rosenblum, a spokesman for the state Labor Department, was not aware of Vova's plight or the father's application. He said his office was searching for the application and had not located it by late yesterday afternoon.

Lautenberg also sent a letter to Gov. Christie Whitman appealing to her "to do everything possible to assure that the Malofienko family does not face deportation due to administrative inertia and bureaucratic entanglements."

A spokesman for Whitman, Gene Herman, said the Governor's Office would investigate. He said delays in the state's processing of the application may have been caused by cuts in federal funds.

[From the Star-Ledger, Newark, NJ, March 14, 1997]

CHERNOBYL VICTIM GETS EXTENDED STAY IN U.S.; SENATOR HELPS YOUTH IN LIFE-OR-DEATH FIGHT

(By Allison Freeman)

"Today we saw what can be done when a compassionate America opens its heart."

A 12-year-old boy, in remission from leukemia he contracted from exposure to the Chernobyl nuclear disaster in Ukraine, will get to remain in the United States for at least another year, thanks to the help of Senator Frank Lautenberg.

Vova Malofienko and his parents, who were scheduled to be deported April 10, will get another year to obtain permanent residency in this country.

For Vova, it could be the difference between life and death. "My heart fills with joy for the work everybody has done," the boy said last night. "I want to stay in this country."

The articulate young man, an honors student in Millburn Middle School, said he is thankful to Lautenberg and everyone else who has helped him.

"This is a great day," the New Jersey Democrat said as he smiled at the boy during a press conference in the Senator's Newark office. "Today we saw what can be done when a compassionate America opens its heart."

Vova's parents need green cards to work in the United States. Getting them is almost impossible due to recent federal legislation that requires people to remain in this country for 10 years before they can apply, yet makes it difficult to remain in the country that long.

Lautenberg attributed the tougher immigration laws to the "U.S. turning more and more inward" and tightening the rules so there is not enough room for everyone who wants to say.

The Senator credited Monica Slater of his staff for working with Immigration and Naturalization Service officials to help extend the Malofienkos's stay in the country. "Our work has paid off," Lautenberg said.

Vova, a mature sixth-grader, came to America in 1990 at the age of 5 with a group of seven other Ukrainian children, all sick from radiation exposure. Their trip to actor Paul Newman's camp was sponsored by the Children of Chernobyl Relief Fund of Short Hills, which airlifts medical treatment and supplies to the sick children of Chernobyl. The seven other children in the group all returned to Ukraine and have since died.

The air, water and food in Ukraine are contaminated with radiation that people there have grown accustomed to, but which could make Vova very sick, his father said. Ukraine also does not have the medical care or equipment needed to save the boy if he suffers a relapse.

Vova's parents said they were certain that if their son returned to Chernihiv, their home three miles from Chernobyl, he would die.

Lautenberg said he hopes to help the Malofienkos find a more permanent solution in their quest to remain in the United States.

Alexander Malofienko, Vova's father, was laid off Feb. 28 from his job at Tetley Tea in Morris Plains. The company was sponsoring him for his work permit. The mechanical engineer in Ukraine is working as a maintenance mechanic in New Jersey and hopes to find new employment soon and resume his effort to secure a work permit.

Olga Matsko plans to graduate from Essex County College in Newark in May with an accounting degree so she can continue her work as an accountant, which she was in Ukraine.

The mother smiled broadly at Lautenberg last night. "This is one of the happiest days of my life," she said, her voice cracking with emotion. "Thank you so much for giving us a chance," she told the Senator.

Matsko also reiterated her thanks to all of her son's doctors, many of whom work in Beth Israel Medical Center in Newark, for donating their services to help her son.

When asked if his office could help Malofienko seek a work permit, Lautenberg said his office is not an employment agency but would do everything it can to help the family.

"We will do what we have to do to try to get them permanent residency here," he said. Lautenberg said his office has already received a few calls with job offers for Vova's father.

The boy also thanked all of his friends at Millburn Middle School who wrote letters to legislators, First Lady Hillary Rodham Clinton and Secretary of State Madeleine Albright and even created a Web site at http://schools. millburn.org/vova/.

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

S. 1461. A bill to establish a youth mentoring program; to the Committee on the Judiciary.

THE JUMP AHEAD ACT OF 1997

Mr. LAUTENBERG. Mr. President, millions of young people cry out for help. It would be irresponsible to turn our backs and do nothing when a solution is not only at hand—but has already proven a helping hand. The problem is "at-risk" youth. The solution is mentoring.

Mr. President, let me give you some idea of the scope of the problem. Last month the census released a report that said half of America's 16 and 17 year olds are at-risk children. Half. That's 3.7 million children at just those two ages. Other estimates run as high as 15 million for children of all ages.

Among the factors putting these children at risk are poverty and being raised in a single-parent family. Twenty-one percent of our children live in poverty—a six point increase since

1970. Twenty-eight percent live in one-parent households—a 16-percent increase since 1970. These "at-risk" children are more likely to drop out of school and be unable to find work. And that, Mr. President, is the path to drugs and crime. Mentoring is a proven way to reach out to these kids and provide them with caring role models who can help turn their lives around.

Earlier this month, Attorney General Janet Reno reported that violent crime by teenagers had dropped for the second straight year. Among the reasons for the drop, General Reno cited the community mentoring programs that we created with the original Juvenile Mentoring Program, or JUMP, in 1992.

Since its enactment, JUMP has funded 93 separate mentoring programs in more than half the states. The competition for JUMP awards is great: Over 479 communities submitted applications for the recent round of grants.

JUMP grantees use a variety of program designs. Mentors include law enforcement and fire department personnel, college students, senior citizens, Federal employees, business people, professionals, and other diverse volunteers.

The children are of all races. They come from urban, suburban, and rural communities, ranging in age from 5 to 20. In its first year, JUMP helped to keep thousands of at-risk young people in 25 States in school and off the streets through one-to-one mentoring.

Mr. President, this program has proved popular and effective and that is why today Senator COATS and I are introducing the JUMP Ahead Act of 1997. I want to thank Senator COATS for his commitment and I am pleased that he is an original cosponsor of this bill.

General Reno was not speaking idly when she touted the benefits of mentoring. A 1995 scientific study of the Big Brothers/Big Sisters Programs bears this out.

The study tracked 959 children in eight cities. Of the children studied, 40 percent came from broken homes, 27 percent had been abused, 28 percent came from homes where the spouse was abused, and 15 percent had suffered the death of a parent. This was a classic pool of at-risk children.

The results after just 1 year were startling. Compared to children who were on a waiting list to enter the program, the children in the study abused alcohol 27 percent less, were 32 percent less likely to engage in violent behavior, and missed 52 percent fewer school days.

These dramatic results were achieved at a cost of just $1,000 a match. Compare that to the $24,000 a year we're willing to spend to put someone in jail once they've dropped out of school and turned to crime or drugs. You are going to hear a lot of statistics today. But too often we lose sight of the human aspect of these numbers. So let me tell you the story of a single child.

Recently, I hosted a conference on mentoring in my home State of New Jersey. There I met 11-year-old Kenneth Jackson. Once Kenneth had been a troubled student who was considered likely to drop out. Now, thanks to his mentor, Kenneth reads and does arithmetic at two grades above his actual sixth grade level. And the best news—Kenneth told me that now he thinks school is cool and that he never thinks about dropping out. It's hard to argue with success like that.

Sadly, Kenneth's mentor—Dwight Giles—is no longer with us. He recently died of a heart attack. Dwight was a good friend and I mourn his passing. And I would like to dedicate this bill to his memory.

Mr. President, we need to take this successful program to the next level. The JUMP Ahead Act reforms the basic successful structure of JUMP and increases funding to $50 million per year for four years and increases awards to up to $200,000.

This initiative will not only vastly increase the number of mentoring programs able to receive grants, but will also create a new category of grants to enable experienced national organizations to provide technical assistance to emerging mentoring programs nationwide. The legislation also requires the Justice Department to rigorously evaluate the programs and document what is effective, and what is not.

Finally, Mr. President, we like to talk a lot about pulling yourself up by your boot straps. But that doesn't mean much for a child unless you also provide a solid path to walk on. I grew up poor in Paterson, NJ. But I had rich role models in both my hard-working parents. Too many children today don't have that same blessing.

Mentoring tells our at-risk kids that we as a nation care about them—that their lives are precious to us. Mentoring tells them that if they are willing to pull on those boots and try to walk away from a dead end life, they will not have to walk alone.

Mr. President, I have told you the scope of the problem. And in America, when we have a problem we don't just wring our hands and say nothing can be done. We roll up our sleeves and get to work.

Mr. President, with this bill we get to work for our children. I hope my colleagues will support the bill, and ask unanimous consent that a copy of the legislation be printed in the RECORD and a summary of the study by the Big Brothers/Big Sisters be printed in the RECORD.

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

S. 1461

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 "JUMP Ahead Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) millions of young people in America live in areas in which drug use and violent and property crimes are pervasive;

(2) unfortunately, many of these same young people come from single parent homes, or from environments in which there is no responsible, caring adult supervision;

(3) all children and adolescents need caring adults in their lives, and mentoring is an effective way to fill this special need for at-risk children. The special bond of commitment fostered by the mutual respect inherent in effective mentoring can be the tie that binds a young person to a better future;

(4) through a mentoring relationship, adult volunteers and participating youth make a significant commitment of time and energy to develop relationships devoted to personal, academic, or career development and social, artistic, or athletic growth;

(5) rigorous independent studies have confirmed that effective mentoring programs can significantly reduce and prevent the use of alcohol and drugs by young people, improve school attendance and performance, improve peer and family and peer relationships, and reduce violent behavior;

(6) since the inception of the Federal JUMP program, dozens of innovative, effective mentoring programs have received funding grants;

(7) unfortunately, despite the recent growth in public and private mentoring initiatives, it is reported that between 5,000,000 and 15,000,000 additional children in the United States could benefit from being matched with a mentor; and

(8) although great strides have been made in reaching at-risk youth since the inception of the JUMP program, millions of vulnerable American children are not being reached, and without an increased commitment to connect these young people to responsible adult role models, our country risks losing an entire generation to drugs, crime, and unproductive lives.

SEC. 3. JUVENILE MENTORING GRANTS.

(a) IN GENERAL.—Section 288B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Administrator shall";

(2) by striking paragraph (2) and inserting the following:

"(2) are intended to achieve 1 or more of the following goals:

"(A) Discourage at-risk youth from—

"(i) using illegal drugs and alcohol;

"(ii) engaging in violence;

"(iii) using guns and other dangerous weapons;

"(iv) engaging in other criminal and antisocial behavior; and

"(v) becoming involved in gangs.

"(B) Promote personal and social responsibility among at-risk youth.

"(C) Increase at-risk youth's participation in, and enhance the ability of those youth to benefit from, elementary and secondary education.

"(D) Encourage at-risk youth participation in community service and community activities.

"(E) Provide general guidance to at-risk youth."; and

(3) by adding at the end the following:

"(b) AMOUNT AND DURATION.—Each grant under this part shall be awarded in an amount not to exceed a total of $200,000 over a period of not more than 3 years.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated

$50,000,000 for each of fiscal years 1999, 2000, 2001, and 2002 to carry out this part.".

SEC. 4. IMPLEMENTATION AND EVALUATION GRANTS.

(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice may make grants to national organizations or agencies serving youth, in order to enable those organizations or agencies—

(1) to conduct a multisite demonstration project, involving between 5 and 10 project sites, that—

(A) provides an opportunity to compare various mentoring models for the purpose of evaluating the effectiveness and efficiency of those models;

(B) allows for innovative programs designed under the oversight of a national organization or agency serving youth, which programs may include—

(i) technical assistance;

(ii) training; and

(iii) research and evaluation; and

(C) disseminates the results of such demonstration project to allow for the determination of the best practices for various mentoring programs;

(2) to develop and evaluate screening standards for mentoring programs; and

(3) to develop and evaluate volunteer recruitment techniques and activities for mentoring programs.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 1999, 2000, 2001, and 2002 to carry out this section.

SEC. 5. EVALUATIONS; REPORTS.

(a) EVALUATIONS.—

(1) IN GENERAL.—The Attorney General shall enter into a contract with an evaluating organization that has demonstrated experience in conducting evaluations, for the conduct of an ongoing rigorous evaluation of the programs and activities assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this Act).

(2) CRITERIA.—The Attorney General shall establish a minimum criteria for evaluating the programs and activities assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this Act), which shall provide for a description of the implementation of the program or activity, and the effect of the program or activity on participants, schools, communities, and youth served by the program or activity.

(3) MENTORING PROGRAM OF THE YEAR.—The Attorney General shall, on an annual basis, based on the most recent evaluation under this subsection and such other criteria as the Attorney General shall establish by regulation—

(A) designate 1 program or activity assisted under this Act as the "Juvenile Mentoring Program of the Year"; and

(B) publish notice of such designation in the Federal Register.

(b) REPORTS.—

(1) GRANT RECIPIENTS.—Each entity receiving a grant under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this Act) shall submit to the evaluating organization entering into the contract under subsection (a)(1), an annual report regarding any program or activity assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this Act). Each report under this paragraph shall be submitted at such time, in such a manner, and shall be accompanied by such information, as the evaluating organization may reasonably require.

(2) COMPTROLLER GENERAL.—Not later than 4 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report evaluating the effectiveness of grants awarded under this Act and under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this Act), in—

(A) reducing juvenile delinquency and gang participation;

(B) reducing the school dropout rate; and

(C) improving academic performance of juveniles.

[From the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, April 1997]

MENTORING—A PROVEN DELINQUENCY PREVENTION STRATEGY

(By Jean Baldwin Grossman and Eileen M. Garry)

In the past decade, mentoring programs for disadvantaged children and adolescents have received serious attention as a promising approach to enriching children's lives, addressing their need for positive adult contact, and providing one-on-one support and advocacy for those who need it. Mentoring is also recognized as an excellent way to use volunteers to address the problems created by poverty (Freedman, 1992).

Through a mentoring relationship, adult volunteers and participating youth make a significant commitment of time and energy to develop relationships devoted to personal, academic, or career development and social, athletic, or artistic growth (Becker, 1994). Programs historically have been based in churches, colleges, communities, courts, or schools and have focused on careers or hobbies.

The child mentoring movement had its roots in the late 19th century with "friendly visitors" who would serve as role models for children of the poor. In 1904 Ernest K. Coulter founded a new movement that used "big brothers" to reach out to children who were in need of socialization, firm guidance, and connection with positive adult role models. The resulting program, Big Brothers/Big Sisters (BB/BS) of America, continues to operate today as the largest mentoring organization of its kind.

BB/BS programs across the Nation provide screening and training to volunteer mentors and carefully match the mentors with "little brothers" and "little sisters" in need of guidance. Public/Private Ventures (P/PV) performed an 18-month experimental evaluation of eight BB/BS mentoring programs that considered social activities, academic performance, attitudes and behaviors, relationships with family and friends, self-concept, and social and cultural enrichment. The study found that mentored youth were less likely to engage in drug or alcohol use, resort to violence, or skip school. In addition, mentored youth were more likely to improve their grades and their relationships with family and friends.

FROM THE ADMINISTRATOR

All children need caring adults in their lives, and mentoring is one way to fill this need for at-risk children. The special bond of commitment fostered by the mutual respect inherent in effective mentoring can be the tie that binds a young person to a better future.

OJJDP's Juvenile Mentoring Program (JUMP) is designed to reduce delinquency and improve school attendance for at-risk youth. Mentoring is also one component of our SafeFutures initiative, which assists communities to combat delinquency by developing a full range of coordinated services. In addition to JUMP and SafeFutures, OJJDP supports mentoring efforts in individual States through our Formula Grants Program funding.

With nearly a century of experience, Big Brothers/Big Sisters of America is probably the best known mentoring program in the United States. The extensive evaluation of this pioneer program by Public/Private Ventures (P/PV), described in this Bulletin, provides new insights that merit our attention.

The P/PV evaluation and OJJDP's 2-year experience with JUMP suggest that strengthening the role of mentoring as a component of youth programming may pay handsome dividends in improved school performance and reduced antisocial behavior, including alcohol and other drug abuse.

SHAY BILCHIK,
Administrator.

THE FEDERAL ROLE

The Juvenile Mentoring Program (JUMP) is a Federal program administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). As supported by JUMP, mentoring is a one-on-one relationship between a pair of unrelated individuals, one adult and one juvenile, which takes place on a regular basis over an extended period of time. It is almost always characterized by a "special bond of mutual commitment" and "an emotional character of respect, loyalty, and identification" (Hamilton, 1990). Although mentoring also is a popular concept for success in the corporate world, this Bulletin focuses on the mentoring of children by adults.

JUMP is designed to reduce juvenile delinquency and gang participation, improve academic performance, and reduce school dropout rates. To achieve these purposes, JUMP brings together caring, responsible adults and at-risk young people in need of positive role models.

In the 1992 Reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974, Congress added Part G—Mentoring. This was done in recognition of mentoring's potential as a tool for addressing two critical concerns in regard to America's children—poor school performance and delinquent activity. Senator Frank Lautenberg and Congressman William Goodling were the primary sponsors of this new provision. In Part G, Congress also recognized the importance of school collaboration in mentoring programs, whether as a primary source or as a partner with other public or private nonprofit entities.

To date Congress has made $19 million available to fund JUMP: $4 million each year in fiscal years (FY's) 1994, 1995, and 1996 and $7 million in FY 1997. OJJDP funded 41 separate mentoring programs under the JUMP unbrella with FY 1994 and 1995 funding. JUMP awards for FY 1996 and FY 1997 will be announced in spring 1997.

While adhering to the basic requirements of JUMP, the grantees are using a variety of program designs. Mentors are law enforcement and fire department personnel, college students, senior citizens, Federal employees, businessmen, and other private citizens. The young people are of all races and range in age from 5 to 20. Some are incarcerated or on probation, some are in school, and some are dropouts. Some programs emphasize tutoring and academic assistance, while others stress vocational counseling and training. In

its first year (July 1995 to July 1996). JUMP was involved in attempting to keep more than 2,000 at-risk young people in 25 States in school and off the streets through one-to-one mentoring.

Additional FY 1995 funding for mentoring was provided through OJJDP's SafeFutures initiative, which operates in six sites (Boston, Massachusetts; Contra Costa County, California; Fort Belknap Indian Reservation, Harlem, Montana; Imperial County, California; Seattle, Washington; and St. Louis, Missouri). The SafeFutures program assists these communities in developing a coordinated continuum of care to reduce youth violence and delinquency. Mentoring is a component of this coordinated effort in each of the SafeFutures sites.

In addition to the funding for JUMP and SafeFutures grantees, OJJDP supports mentoring programs through its Formula Grants program to the States. In FY 1995, for example, Formula Grants funds in 28 States supported 91 programs that included mentoring as part or all of the program.

BIG BROTHERS/BIG SISTERS (BB/BS) OF AMERICA

BB/BS is a federation of more than 500 agencies that serve children and adolescents. Its mission is to make a difference in the lives of young people, primarily through a professionally supported one-to-one relationship with a caring adult, and to assist them in reaching their highest potential as they grow into responsible men and women by providing committed volunteers, national leadership, and standards of excellence. The organization's current goals include increasing the number of children served; improving the effectiveness, efficiency, and impact of services to children; and achieving a greater racial and ethnic diversity among volunteers and staff. BB/BS volunteer mentors come from all walks of life, but they share the goal of being a caring adult who can make a difference in the life of a child.

For more than 90 years, the BB/BS program has paired unrelated adult volunteers with youth from single-parent households. BB/BS does not seek to ameliorate specific problems but to provide support to all aspects of young people's lives. The volunteer mentor and the youth make a substantial time commitment, meeting for about 4 hours, two to four times a month, for at least 1 year.

Developmentally appropriate activities shared by the mentor and the young person may include taking walks; attending a play, movie, school activity, or sporting event; playing catch; visiting the library; washing the car; grocery shopping; watching television; or just sharing thoughts and ideas about life. Such activities enhance communication skills, develop relationship skills, and support positive decisionmaking.

The BB/BS mentor relationships between mentors and youth are achieved through professional staff and national operating standards that provide a level of uniformity in recruitment, screening, matching, and supervision of volunteers and youth. BB/BS agencies provide orientation for volunteers, parents, and youth to assist the individuals in determining if involvement in the program is appropriate for them. Opportunities to participate in volunteer education and development programs such as relationship building, communication skills, values clarification, child development, and problem solving are available to local affiliates.

Supervision includes contact with all parties within the first 2 weeks following a match. BB/BS maintains monthly contact with the volunteer and parent or child for the first year. In addition, inperson or telephone contact is maintained quarterly between case managers and both the volunteer and the parent, guardian, and/or child for the duration of the match. Although its standards are reinforced through national training, national and regional conferences, and periodic agency evaluations, BB/BS is not monolithic. Individual agencies adhere to national guidelines, but they customize their programs to fit the circumstances in their area.

How youth benefit from big brothers/big sisters relative to similar nonprogram youth 18 months after applying

(In percent)

Outcome	*Change*
Antisocial activities:	
Initiating Drug Use	−45.8
Initiating Alcohol Use	−27.4
Number of Times Hit Someone	−31.7
Academic outcomes:	
Grades	3.0
Scholastic Competence	4.3
Skipped Class	−36.7
Skipped Day of School	−52.2
Family relationships:	
Summary Measure of Quality of the Relationship	2.1
Trust	2.7
Lying to Parent	−36.6
Peer Relationships: Emotional Support	2.3

[1] For ease of presentation, we will refer to the group that was immediately eligible for a mentor as "mentored youth" or "Little Brothers and Little Sisters," even though this group includes some youth (22 percent) who were never matched. The wait-list youth are called the "control" youth.

Note.—All impacts in this table are statistically significant at least at a 90 percent level of confidence.

PUBLIC/PRIVATE VENTURES (P/PV) EVALUATION OF BIG BROTHERS/BIG SISTERS

At the same time that Congress was considering Federal support for juvenile mentoring programs, P/PV was beginning a carefully designed evaluation of BB/BS mentoring programs (Tierney and Grossman, 1995), OJJDP followed the progress of this 18-month experimental evaluation closely, believing that the results would confirm the generally accepted proposition that mentoring benefits at-risk youth and would support further national expansion of this activity.

P/PV chose eight local BB/BS agencies for the study, using two criteria: large caseload (to ensure an adequate number of youth for the research sample) and geographic diversity. The sites selected were in Columbus, Ohio; Houston, Texas; Minneapolis, Minnesota; Philadelphia, Pennsylvania; Phoenix, Arizona; Rochester, New York; San Antonio, Texas; and Wichita, Kansas.

The young people in the study were between 10 and 16 years old (with 93 percent between 10 and 14). Slightly more than 60 percent were boys, and more than 50 percent were minority group members (of those, about 70 percent were African American). Almost all lived with one parent (usually the mother), the rest with a guardian or relatives. Many were from low-income households, and a significant number came from households with a history of either family violence or substance abuse. For the study, youth were randomly assigned to be immediately eligible for a mentor or put on a waiting list.[1]

The goal of the research was to determine whether a one-to-one mentoring experience made a tangible difference in the lives of these young people. The researchers considered six broad areas that mentoring might affect: antisocial activities, academic performance, attitudes and behaviors, relationships with family, relationships with friends, self-concept, and social and cultural enrichment. The findings presented below were based on self reported data obtained from baseline and following up interviews or from forms completed by agency staff.

The overall findings, summarized in the table, are positive. The most noteworthy results are these:

Mentored youth were 46 percent less likely than controls to initiate drug use during the study period. An even stronger effect was found for minority Little Brothers and Little Sisters, who were 70 percent less likely to initiate drug use than similar minority youth.

Mentored youth were 27 percent less likely than were controls to initiate alcohol use during the study period, and minority Little Sisters were only about one-half as likely to initiate alcohol use.

Mentored youth were almost one-third less likely than were controls to hit someone.

Mentored youth skipped half as many days of school as control youth, felt more competent about doing schoolwork, skipped fewer classes, and showed modest gains in their grade point averages. These gains were strongest among Little Sisters, particularly minority Little Sisters.

The quality of their relationship with their parents was better for mentored youth than for controls at the end of the study period, primarily due to a higher level of trust between parent and child. This effect was strongest for white Little Brothers.

Mentored youth, especially minority Little Brothers, had improved relationships with their peers.

P/PV did not find statistically significant improvements in self-concept or the number of social and cultural activities in which Little Brothers and Little Sisters participated.

P/PV concluded that the research presented clear and encouraging evidence that mentoring programs can create and support caring relationships between adults and youth, resulting in a wide range of tangible benefits. It was the researchers' judgment that the successes they observed are unlikely without both the relationship with the mentor and the support from the BB/BS program.

The study did not find evidence that any mentoring programming will work but that programs that facilitate the specific types of relationships observed in BB/BS work well. The researchers noted that following about the relationships between Little Brothers and Little Sisters and their Big Brothers and Big Sisters:

They had a high level of contact, typically meeting three times per month for 4 hours per meeting. Many had additional contact by telephone.

The relationship were built using an approach that defines the mentor as a friend, not a teacher or preacher. The mentor's role is to support the young person in his or her various endeavors, not explicitly to change the youth's behavior or character.

The study lists the following elements as prerequisites for an effective mentoring program:

Thorough volunteer screening that weeds out adults who are unlikely to keep their time commitment or who might pose a safety risk to youth.

Mentor training that includes communication and limit-setting skills, tips on relationship-building, and recommendations on

the best way to interact with a young person.

Procedures that take into account the preferences of the youth, their families, and volunteers and that use a professional case manager to determine which volunteer would work best with each youth.

Intensive supervision and support of each match by a case manager who has frequent contact with the parent or guardian, volunteer, and youth and who provides assistance as difficulties arise.

One of the strongest conclusions of the P/PV study is the importance of providing mentors with support in building trust and developing positive relationships with youth. Many of the relationships between the volunteers and youth would have faltered and dissolved if they had not been nurtured by BB/BS's caseworkers. Thus to be effective, mentoring programs should provide an infrastructure that fosters and supports the development of effective relationships.

Over 8 years, P/PV studied numerous mentoring programs other than BB/BS. The extent to which these mentoring programs included standardized procedures in the areas of screening, orientation, training, match supervision and support, matching practices, and regular meeting times varied tremendously. Some programs included virtually none of these elements, while others were highly structured. The researchers identified three of these areas as vitally important to the success of any mentoring program: screening, orientation and training, and support and supervision.

The screening process provides programs with an opportunity to select adults who are most likely to be successful as mentors by looking for individuals who already understand that a mentor's primary role is to develop a friendship with the youth. Orientation and prematch training provide important opportunities to ensure that youth and their mentors share a common understanding of the adult's role in these programmatically created relationships and to help mentors develop realistic expectations of what they can accomplish. Ongoing staff supervision and support of matches is critical to ensuring that mentors and youth meet regularly over a substantial period of time and develop positive relationships.

It is interesting to note that matching did not turn out to be one of the most critical elements. None of the objective factors (e.g., age, race, and gender) that staff take into account when making a match correlate very strongly with the frequency of meetings, length of the match, or its effectiveness. Programs may prefer to make same-race matches, and parents and youth sometimes prefer a mentor of the same race. Programs should continue to honor these preferences and make same-race matches whenever possible. At the same time, it is clear that youth who wait a long time for a same-race mentor are in most cases only delaying the benefits that a mentor of any race can provide.

There are two obstacles to replication of effective mentoring programs: the limited number of adults available to serve as mentors and the scarcity of organizational resources necessary to carry out a successful program. The researchers report that between 5 million and 15 million children could benefit from being matched with a mentor; the organization matches only about 75,000 youth in a year. Even with the multitude of smaller mentoring programs around the country, it seems reasonable to conclude that at best just a small percentage of young people are benefiting from mentoring.

In regard to organizational resources, the study notes that effective programs require agencies that take substantial care in recruiting, screening, matching, and supporting volunteers. Paid caseworkers carry out these critical functions for BB/BS at a program cost of approximately $1,000 per year per match.

OJJDP AND THE P/PV RESULTS

The P/PV evaluation, plus its 2 years of experience with JUMP, led OJJDP to modify the project design guidelines in its 1996 JUMP solicitation to reflect the latest knowledge about what works—and does not work—in mentoring. Based on the P/PV study, OJJDP expanded the guideline on mentor support and training, emphasizing that the program coordinator should have frequent contact with parents of guardians, volunteers, and youth and should provide assistance when requested or as problems arise. This guideline also specifies the type of training mentors should receive. From its JUMP experience, OJJDP inserted a guideline on the role of the mentor, added a caution about time limitations that may interfere with the effectiveness of college undergraduate or graduate students as mentors, suggested that parents should have a say in the selection of mentors, called for screening mechanisms to weed out volunteers who will not keep their commitments, and established minimum expectations for the time mentors should spend with youth (1 hour per week for at least 1 year).

EVALUATION OF JUMP

OJJDP is required by Congress to submit a report regarding the success and effectiveness of JUMP initiatives 120 days after their termination. Evaluations are critical to ensuring that mentoring programs operate as designed and meet their goals in terms of both the process and the impact on youth.

To prepare for the timely initiation of evaluation activities once the grantee is chosen for the national evaluation, OJJDP directed its management evaluation contractor, Caliber Associated, to design an evaluation and prepare for initial data collection. The JUMP evaluation will be accomplished through a partnership among the grantees, OJJDP, and the JUMP evaluation grantee. Caliber produced a workbook containing an overview of the JUMP initiative and the national evaluation that defined the roles of OJJDP, the evaluator, and JUMP grantees. Caliber also pilot tested grantee administration of data collection instruments and conducted followup interviews of participating grantees. Once the grantee for the evaluation is selected, Caliber also will help coordinate the transition to the evaluation grantee. Selection of the evaluation grantee is expected to take place in spring 1997.

Although formal evaluations have not yet been implemented, the mentoring programs funded under JUMP appear to be making a difference in the lives of many young people. The preliminary accomplishments of a few of the OJJDP-funded mentoring programs are highlighted below.

The Big Brothers/Big Sisters of southwest Idaho have made 41 matches of at-risk youth and mentors in this JUMP project. According to parents and teachers familiar with the program, 30 percent of the youth who participated in the program showed improvement in their school attendance, 30 percent showed academic improvement, 35 percent showed improvement in their general behavior, and 48 percent increased the frequency of appropriate interactions with peers. For example, a female being raised by her father was matched to a female volunteer and, after the match, scored higher in measures of grades, self-satisfaction, self-esteem, positive attitude toward others, and pride in appearance.

Project Caring Connections in New York City provides 30 youth with caring relationships with adult mentors from corporations and the community. As an integral part of the Liberty Partnerships Program, it offers a comprehensive range of services from academic enrichment to cultural experiences to a safe environment in which young people can learn social skills. During afterschool hours, Project Caring Connections mentors work with students one-to-one or in a group to provide academic support, job shadowing (going to the mentor's workplace), and social and cultural enrichment. Through the program, at-risk students may gain exposure to publishing, theater, law, art, government, and business and also do community service. This past year, some youth were able to serve as panelists on a cable news show and discuss crime in their communities, curfews, and the importance of staying in school.

Big Sisters of Colorado, in Denver, matched 59 girls, mostly Hispanic, with mentors. Program activities funded by OJJPD included a Life Choices program to develop decisionmaking and academic skills; recreation, community service, and challenge course activities; a pregnancy-prevention program; and mentor visits to the girls' schools. None of these girls have become pregnant or had problems with alcohol or drugs since their involvement in the program.

Big Brothers/Big Sisters of Pensacola, Florida, is a JUMP initiative in which 26 youth from single-parent families who are at risk for juvenile delinquency, teen pregnancy, truancy, and dropping out of school are being mentored by legal professionals, members of the military, corporate employees, and others. The youth are actively encouraged to stay in school and meet the goals their individualized case plans. All have had increased exposure to athletic, recreational, and cultural activities, and many have demonstrated improved social and academic skills. The program has also engaged youth in a 3-day Kids N Kops police mini-academy. This innovative program provides mentoring and training by police officers and educates youth about the dangers of drugs, guns, and gangs while strengthening the relationship between police and at-risk youth.

The Cincinnati Youth Collaborative in Ohio matched 136 youth and volunteers in its first year in JUMP. Mentors include doctors, dentists, lawyers, judges, teachers, chemists, police officers, nurses, waiters, postal clerks, travel agents, and college students. Some special activities were a trip to New York City, visits to college campuses, a community bowl-a-thon, job shadowing, and participation in a school beautification project. The project reports that 99 of the 136 young people have improved academically and 102 have improved socially.

The RESCUE Youth mentoring program in Los Angeles, California, was developed and implemented by the Los Angeles County District Attorney's Office, in conjunction with the Los Angeles County Fire Department, to rescue youth ages 12 to 14 at the earliest signs of at-risk behavior. The district attorney's staff match the students with volunteer firefighter mentors in an effort to address truancy, juvenile delinquency, and potentially serious criminal behavior. Through this JUMP initiative, mentors worked with

140 youth on their communication and conflict resolution skills and provided training in fire prevention and first aid.

The JUMP projects offer many success stories, including the following examples. One student, who began the 1995–96 school year as a repeat first grader, ended the year with straight A's with the help of her mentor. In another instance, a male student being raised by his father alone showed a twofold increase in his grades and in measures of self-esteem after being matched with a female mentor. It is expected that the JUMP evaluation will document a significant number of similar positive outcomes.

SUMMARY

The research conducted by P/PV—and the preliminary reports from JUMP—provide powerful evidence that youth can be positively influenced by adults who care. More important, these positive relationships do not have to be left to chance but can be created through structured mentoring programs.

The P/PV research, however, has even broader implications for social policy than just encouraging the spread of mentoring—namely, that practitioners and policy makers should take a new approach to serving youth. For the past 30 years, society's attention and resources were directed predominantly at teenagers' problems, as evidenced by programs focusing on issues such as dropping out of school, truancy, substance abuse, and teen pregnancy. With only small gains to show, the public and politicians alike have concluded, probably prematurely, that youth, even those as young as 14, are too old to be helped.

The BB/BS results suggest that, where its youth policy is concerned, society's focus has been too narrow. What is desperately needed is a more positive approach that meets the basic needs of youth, especially those living in high-risk neighborhoods, for nurturing and supportive adults, positive things to do after school and on weekends, and volunteer and work opportunities that develop skills, foster learning, and instill a sense of civic responsibility. If society focuses on these basic developmental needs, youth will mature responsibly, avoid many negative behaviors, and become more resilient in the face of inevitable setbacks.

P/PV's evaluation of BB/BS suggests that strengthening this aspect of youth programming is likely to be more effective in producing responsible young adults than the traditional approach to youth policy, which has attempted to prevent specific problems or to correct problems that have already arisen. These traditional elements will still be needed, but they should complement and support the basic developmental needs addressed by mentoring programs.

The BB/BS mentoring program did not provide tutoring and antidrug counseling—it simply provided adult friendship on a regular and intensive basis. Yet it achieved improvements in school performance and reductions in antisocial behavior. The findings thus provide a direction for building and strengthening one approach to delinquency prevention.

Dealing with the problems of juvenile delinquency, creating more positive opportunities for our youth, and helping them find strong and positive adult role models in their lives are among the societal goals that can be achieved in part through the implementation of sound mentoring programs. While many children are being served by these efforts already, hundreds of thousands more could also benefit from the special bond of mentoring before serious problems develop.

Mr. COATS. Mr. President, I am so pleased to join my colleague Senator LAUTENBERG in introducing the JUMP Ahead Act of 1997. As a national board member of Big Brothers Big Sisters of America, I know personally how important this legislation is, and the type of opportunity it will give to thousands of at-risk youth around the country.

While intuitively we know that mentoring relationships can make a huge difference in the lives of young people, we now have scientifically reliable evidence about the positive impact that mentoring programs can have. In 1995, Public/Private Ventures, a policy research organization in Philadelphia, conducted an impact study of the Big Brothers Big Sisters program. The results were startling. The addition of a Big Brothers or Big Sister to a young person's life drastically reduced first time drug use, significantly lowered absenteeism, and reduced violent behavior. Furthermore, the young people studied were less likely to start using alcohol and more likely to do well in school.

JUMP Ahead will link community based mentoring programs with public schools to give more children the chance to reap the benefits of a one-to-one mentoring relationship. JUMP Ahead is based on a small, innovative, federal program known as the Juvenile Mentoring Program [JUMP].

Building on the success of JUMP, the JUMP Ahead Act will create a competitive grant program which allows local, nonprofit social service and education agencies to apply cooperatively and directly for grants from the Department of Justice's Office of Juvenile Justice and Delinquency Prevention. These grants are used to establish mentoring services utilizing responsible individuals as mentors.

During the last session of Congress, I introduced the Character Development Act as part of my Project for American Renewal. The Character Development Act, like the JUMP Ahead Act, Stressed the importance of mentoring relationships in the process of cultural renewal.

The need for additional adult support and guidance for our Nation's youth has never been greater than at this time. Currently 38 percent of all American children live without their fathers. It is increasingly important to support the work of organizations that are attempting to stand in the gap left by absent fathers.

Since mentoring programs work through the efforts of volunteers, only modest funds are necessary to have a far-reaching impact. I am convinced that the investment that the JUMP Ahead Act calls for over the next 5 years, will produce tremendous positive results in the lives of many at-risk youth.

I encourage my colleagues to take a close look at this bill and consider supporting it. One-to-one mentoring has proven its effectiveness in positively impacting the lives of at risk youth. I ask my colleagues to join me and Senator LAUTENBERG in this effort to encourage and expand opportunities for one-to-one mentoring relationships for at-risk youth. The JUMP Ahead Act of 1997 takes an important step forward in meeting the needs of so many of this country's hurting youth.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 1642. A bill to authorize the Delaware and Lehigh Navigation Canal National Heritage Corridor Act, and for other purposes; to the Committee on Energy and Natural Resources.

THE DELAWARE AND LEHIGH NATIONAL HERITAGE CORRIDOR ACT AMENDMENTS OF 1997

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation to reauthorize the Delaware and Lehigh Canal National Heritage Corridor Act of 1988, which established a Federal Commission to assist in planning and implementing an integrated strategy for promoting and protecting the cultural, historical, and natural resources in the canal region, which consists of a 150-mile long corridor stretching through five counties in eastern Pennsylvania, including Luzerne, Carbon, Lehigh, Northampton, and Bucks. As a member of the Senate Appropriations Committee, I have been pleased to support annual funding for the work of the Commission, and believe reauthorization is necessary to continue preserving the heritage of the canal region and to promote economic development.

Mr. President, let me provide you and my colleagues with some background on the Delaware and Lehigh corridor. The Delaware Canal first opened for regular commercial navigation in 1834 and served as the primary means for transporting coal and other bulk goods from the anthracite region of Pennsylvania to New York, New Jersey, Philadelphia, and even to industrial centers in Europe. The canal provided an early and essential link in a 4,000 mile national transportation route and helped to transform Pennsylvania from a solely agrarian State to the center of an industrialized society. The Delaware Canal and the Lehigh Navigation Canal played a critical role in supplying our developing Nation with the coal that heated its homes and the fuel for its burgeoning factories.

In 1998, Congress wisely established the Corridor and the Delaware and Lehigh National Corridor Commission. The commission was charged with conserving, interpreting, and promoting the natural, historic, cultural, scenic, and recreational resources of the region. Nine national historic landmarks,

six national recreation trails, two national natural landmarks, and hundreds of sites listed on the National Register are situated within these boundaries. In addition, 7 State parks, 3 State historical parks, 14 State scenic rivers, and 14 State game lands are located in the region. This is an impressive and historic area that must be preserved. More than three million visitors explore the region each year to see the numerous attractions in the area, including the Allentown Art Museum, Eckley Miners Village, Washington Crossing, and Moravian Tire Work.

Another attraction that will preserve the region's heritage and promote economic development is a cultural center in Two Rivers Landing that will house the city of Easton's National Canal Museum and the Crayola Factory. Two Rivers Landing first opened in June 1996, marking a rebirth of Easton's downtown. Since then, more than 300,000 visitors have come. The project has been credited with attracting 82 businesses to downtown and creating nearly 100 jobs.

The Delaware and Lehigh National Heritage Corridor has established a strong record of successful partnership projects that link Federal, State and local governments with nonprofit organizations and private industries. Two Rivers Landing is just one of the many successful private/public partnerships led by the Commission. Another example is the Lehigh River Foundation, which was formed in 1991 to give private sector support to the Commission's initiatives. The foundation has raised more than $150,000 from local businesses and individuals to create an educational film, sponsor heritage events, and establish an information center in Bethlehem, the site of the only American 19th century steel plant to retain all of its historic elements. The corridor is sustained by broad public involvement and nonfederal investment. There are many project supporters, such as the Heritage Conservancy, the Pennsylvania Department of Conservation and Natural Resources, the Pennsylvania Historical and Museum Commission, and the Pennsylvania Department of Community and Economic Development. Corporations such as Binney and Smith, makers of Crayola products, Bethlehem Steel, and Mack Trucks have also made major financial commitments to support new industrial museums and attractions.

Statutory authority for the Delaware and Lehigh National Corridor Commission will expire in November, 1998 unless Congress acts. I believe there is ample need for reauthorization because of the unfinished work of the Commission. I would note that the Commission was authorized to receive up to $350,000 in operating funds a year, but funding for the program did not begin until 1990, and since then, it has regularly received only $329,000 a year through the annual Interior and related agencies appropriations bill.

The primary reason for reauthorization is the delay in implementing a Management Action Plan for the region. The 1988 act mandated a series of studies and public meetings in order to complete a management action plan, which will serve as an action agenda for the first 10 years of corridor development. The management action plan did not received final approval from the Secretary of the Interior until August, 1994. Further, the findings of the management action plan envisioned a 15-year implementation period after approval by the Secretary. I am concerned that with less than one year left until the act expires, there is insufficient time to implement the plan to help conserve the resources of this historically significant region.

The Corridor Commission has made significant progress and there is public enthusiasm and support for the projects being carried out by the Commission, particularly where they promote economic development. However, they can not do this alone. There is a real need for sufficient Federal support of operations. I would note that the Commission must, by law, raise sufficient private and other nonfederal funds so that the annual Federal grant to the Commission constitutes no more than 50 percent of its operating budget. For each government dollar raised, the Commission has been successful in leveraging $8 to $14 in matching funds. This project has clearly demonstrated that Federal investment acts as a catalyst for local and private investment.

Building on the success of the Corridor Commission, my legislation will authorize an increase in the Commission's operating budget from $350,000 to $650,000 a year, which will leverage additional private, State, and local funds. My legislation retains the 50 percent limitation on the amount of the Federal subsidy. Also, the legislation authorizes up to $10 million over 10 years to implement projects included in the management action plan and approved by the Secretary of the Interior, including the restoration and preservation of the Delaware Canal, and landing developments in 8 to 10 cities. The legislation extends the Commission another 10 years, thereby allowing the project to realize its goals while improving operating efficiency and extending participation.

The corridor's management action plan has become an important tool for both community and economic revitalization. It is recognized as a national model for the coordination of grassroots community efforts with those of government and private industry. Last year, the 104th Congress created nine new national heritage areas based in part on the success of the Delaware and Lehigh model. Mr. President, I encourage my colleagues to support this valuable Commission and to reauthorize the 1988 act so that Americans can continue to learn about the rich history of the region and appreciate the lands, waterways, and structures within the Delaware and Lehigh Heritage Corridor. Mr. President, I ask unanimous consent that the text of the legislation and a section-by-section summary of my legislation be included in the RECORD.

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

S. 1462

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 "Delaware and Lehigh National Heritage Corridor Act Amendments of 1997".

SEC. 2. NAME CHANGE.

The Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4552) is amended by striking "Delaware and Lehigh Navigation Canal National Heritage Corridor" each place it appears (except section 4(a)) and inserting "Delaware and Lehigh National Heritage Corridor".

SEC. 3. PURPOSE.

Section 3(b) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4552) is amended—

(1) by inserting after "subdivisions" the following: "in enhancing economic development within the context of preservation and"; and

(2) by striking "and surrounding the Delaware and Lehigh Navigation Canal in the Commonwealth" and inserting "the Corridor".

SEC. 4. CORRIDOR COMMISSION.

(a) MEMBERSHIP.—Section 5(b) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4553) is amended—

(1) in the matter preceding paragraph (1), by striking "appointed not later than 6 months after the date of enactment of this Act";

(2) by striking paragraph (2) and inserting the following:

"(2) 3 individuals, of whom—

"(A) 1 shall be the Director of the Pennsylvania Department of Conservation and Natural Resources;

"(B) 1 shall be the Director of the Pennsylvania Department of Community and Economic Development; and

"(C) 1 shall be the Chairperson of the Pennsylvania Historical and Museum Commission.";

(3) in paragraph (3), by striking "recommendations from the Governor, of whom" and all that follows through "Delaware Canal region" and inserting the following: "nominations from the Governor, of whom—

"(A) 1 shall represent a city, 1 shall represent a borough, and 1 shall represent a township; and

"(B) 1 shall represent each of the 5 counties of Luzerne, Carbon, Leehigh, Northampton, and Bucks in Pennsylvania"; and

(4) in paragraph (4)—

(A) by striking "8 individuals" and inserting "9 individuals"; and

(B) by striking "recommendations from the Governor, who shall have" and all that

follows through "Canal region. A vacancy" and inserting the following: "nominations from the Governor, of whom—

"(A) 3 shall represent the northern region of the Corridor;

"(B) 3 shall represent the middle region of the Corridor; and

"(C) 3 shall represent the southern region of the Corridor.

A vacancy".

(b) TERMS.—Section 5 of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4553) is amended by striking subsection (c) and inserting the following:

"(c) TERMS.—The following provisions shall apply to a member of the Commission appointed under paragraph (3) or (4) of subsection (b):

"(1) LENGTH OF TERM.—The member shall serve for a term of 3 years.

"(2) CARRYOVER.—The member shall serve until a successor is appointed by the Secretary.

"(3) REPLACEMENT.—If the member resigns or is unable to serve due to incapacity or death, the Secretary shall appoint, not later than 60 days after receiving a nomination of the appointment from the Governor, a new member to serve for the remainder of the term.

"(4) TERM LIMITS.—A member may serve for not more than 2 full terms starting after the date of enactment of this paragraph.".

(c) CONFIRMATION.—Section 5 of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4553) is amended by adding at the end the following:

"(h) CONFIRMATION.—The Secretary shall accept or reject an appointment under paragraph (3) or (4) of subsection (b) not later than 60 days after receiving a nomination of the appointment from the Governor.".

SEC. 5. POWERS OF THE COMMISSION.

(a) CONVEYANCE OF REAL ESTATE.—Section 7(g)(3) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4555) is amended in the first sentence by inserting "or nonprofit organization" after "appropriate public agency".

(b) COOPERATIVE AGREEMENTS.—Section 7(h) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4555) is amended—

(1) in the first sentence, by inserting "any nonprofit organization," after "subdivision of the Commonwealth,"; and

(2) in the second sentence, by inserting "such nonprofit organization," after "such political subdivision,".

(c) GRANTS AND LOANS.—Section 7 of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4554) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

"(i) GRANTS AND LOANS.—The Commission may administer any grant or loan from amounts—

"(1) appropriated to the Commission for the purpose of providing a grant or loan; or

"(2) donated or otherwise made available to the Commission for the purpose of providing a grant or loan.".

SEC. 6. DUTIES OF THE COMMISSION.

Section 8(b) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4556) is amended in the matter preceding paragraph (1) by inserting ", cultural, natural, recreational, and scenic" after "interpret the historic".

SEC. 7. TERMINATION OF THE COMMISSION.

Section 9(a) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4556) is amended by striking "5 years after the date of enactment of this Act" and inserting "10 years after the date of enactment of the Delaware and Lehigh National Heritage Corridor Act Amendments of 1997".

SEC. 8. DUTIES OF OTHER FEDERAL ENTITIES.

Section 11 of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4557) is amended in the matter preceding paragraph (1) by striking "the flow of the Canal or the natural" and inserting "the historic, cultural, natural, recreational, or scenic".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—Section 12(a) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4558) is amended by striking "$350,000" and inserting "$650,000".

(b) MANAGEMENT ACTION PLAN.—Section 12 of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4558) is amended by adding at the end the following:

"(c) MANAGEMENT ACTION PLAN.—

"(1) IN GENERAL.—To implement the management action plan created by the Commission, there is authorized to be appropriated $1,000,000 for each of fiscal years 1998 through 2007.

"(2) LIMITATION ON EXPENDITURES.—Amounts made available under paragraph (1) shall not exceed 50 percent of the costs of implementing the management action plan.".

SEC. 10. LOCAL AUTHORITY AND PRIVATE PROPERTY.

The Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4552) is amended—

(1) by redesignating section 13 as section 14; and

(2) by inserting after section 12 the following:

"SEC. 13. LOCAL AUTHORITY AND PRIVATE PROPERTY.

"The Commission shall not interfere with—

"(1) the private property rights of any person; or

"(2) any local zoning ordinance or land use plan of the Commonwealth of Pennsylvania or any political subdivision of Pennsylvania.".

SECTION-BY-SECTION ANALYSIS OF THE DELAWARE AND LEHIGH REAUTHORIZATION ACT

Section 1: Short title.—Delaware and Lehigh National Heritage Corridor Act Amendments of 1997.

Section 2: Name change.—The Delaware and Lehigh Navigation Canal National Heritage Corridor is changed to Delaware and Lehigh National Heritage Corridor.

Section 3: Purpose.—The purpose of the Act will include enhancing economic development within the context of preservation in the Corridor.

Section 4: Corridor Commission.—The Act is amended to include the approved recommendations of the Management Action Plan concerning the membership of the Commission.

Section 5: Powers of the Commission.—The Act is amended to allow the Commission to convey real property to a qualifying nonprofit organization if that organization is best able to conserve the property.

Section 6: Duties of the Commission.—The Act is amended to include preservation and interpretation of historic, cultural, natural, recreational, and scenic resources, rather than only historic resources.

Section 7: Termination of the Commission.—The Commission will terminate ten years after enactment of this Act.

Section 8: Duties of other Federal Entities.—The Act is amended to require federal entities to consult with the Secretary of the Interior and the Commission regarding activities that affect the historic, cultural, recreational, and scenic resources of the Corridor, not only natural resources and flow of the canal.

Section 9: Authorization of Appropriations.—The Commission is authorized to receive $650,000 a year as well as $1 million a year for ten years to implement the Management Action Plan.

Section 10: Local Authority and Private Property.—The Act is amended to state that local authority and private property rights shall not be affected by enactment of this legislation.

By Mr. KOHL:

S. 1463. A bill to change the date for regularly scheduled Federal elections and establish polling place hours; to the Committee on Rules and Administration.

WEEKEND VOTING ACT

Mr. KOHL. Mr. President, I rise to discuss a disturbing trend in our democracy—the decline of voter turnout in our elections.

During the past 2 years we have debated at length our campaign finance system. We have seen in ample detail the corrupting influences invading our elections, and the effect these stories are having on the American public. Voters are increasingly distrustful of their system of government. They have lost confidence in America's institutions, its leaders, and its electoral process.

The Senate is taking steps to reform the campaign finance system, and I am hopeful that before the spring we will have a campaign finance reform bill to present to the American public. But there are other reforms which we can undertake to restore citizens' faith in our democracy and increase participation in elections.

For decades we've seen a gradual decline in voter turnout. In 1952, about 63 percent of eligible voters came out to vote—that number dropped to about 49 percent in the 1996 election. Non-Presidential year voter turnout is even more abysmal.

Analysts point to a variety of reasons for this dropoff. Certainly, common sense suggests that the general decline in voter confidence in government institutions is one logical reason. However, I'd like to point out, one survey of voters and nonvoters suggested that both groups are equally disgruntled with government.

We must explore ways to make our electoral process more user friendly. We must adjust our institutions to the needs of the American public of the 21st century. Our democracy has always had the amazing capacity to

adapt to the challenges thrown before it, and we must continue to do so if our country is to grow and thrive.

I propose that we consider innovative ways to increase voter turnout and enhance our citizens' impression of the process. One way to do this would be change the hours that polls are open.

Mr. President, today I am introducing the Weekend Voting Act of 1997, which would change the day for congressional and presidential elections from the first Tuesday in November to the first weekend in November.

Mr. President, I come from the business world, where you had a perfect gauge of what the public thought of you and your products. If you turned a profit, you knew the public liked your product—if you didn't, you knew you needed to make changes. If customers weren't showing up when your store was open, you knew you had to change your store hours.

In essence, it's time for the American democracy to change its store hours. Since the mid-19th century, election day has been on the first Tuesday of November. Ironically, this date was selected because it was convenient for voters. Tuesdays were traditionally court day, and land-owning voters were often coming to town anyway.

Just as the original selection of our national voting day was done for voter convenience, we must adapt to the changes in our society to make voting easier for the regular family. Two in every three households have both parents working. Since most polls in the U.S. are open only 12 hours, from 7 a.m. to 7 p.m., voters often have only 1 or 2 hours to vote. If they have children, and are dropping them off at day care, voters often must take time off work to vote.

We can do better by offering more flexible voting hours for all Americans, especially working families.

Under this bill, polls would be open nationwide for a uniform period of time from Saturday, 6 p.m. eastern time to Sunday, 6 p.m. eastern time. Polls in other time zones would also open and close at this time. Some Western States have complained that early return information broadcast over television networks has decreased voter turnout. By establishing uniform nationwide voting schedules, this problem would be solved.

I should note, while I've been an advocate of weekend voting for some time, it was NBC Anchor Tom Brokaw who suggested the uniform voting schedule, and I thank him for his contribution to this proposal.

Mr. President, of 27 democracies, 17 of them allow their citizens to vote on holidays or the weekends. And in nearly every one of these nations, voter turnout surpasses our country's poor performance. We can do better.

Like most innovative plans, States already are experimenting with novel ways to increase voter turnout and satisfaction. Texas has implemented an early voting plan, California has relaxed restrictions on absentee voting, and Oregon's special election for Senator in 1996 was done entirely by mail. While results are still inconclusive whether these new models increase voter turnout, there is no doubt that voters are much more pleased with the additional convenience and ease with voting.

Under the Weekend Voting Act, States would be permitted to close the polls during the overnight hours if they determine it would be inefficient to keep them open. Because the polls are open from Saturday to Sunday, they would not interfere with religious observances.

I know that partisans in both parties will decry this plan as detrimental to their candidates. Republican consultants will worry that union households that traditionally vote Democratic will have more time to go and vote. Democrat consultants will worry that the combination of church and voting on Sundays will hurt their party's chances at the poll. I hope both are right, and that the end result is more people affiliated with both parties coming out to vote. That should be the goal of a democracy.

Mr. President, I recognize a change of this magnitude will take some time. But, how much more should voting turnout decline before we realize we need a change. How much lower should our citizens' confidence plummet before we adapt and create a more "consumer-friendly" polling system.

The Weekend Voting Act will not solve all of this democracy's problems, but it is a commonsense approach for adapting this grand democratic experiment of the 18th century to the American family's lifestyle of the 21st century.

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

S. 1465. A bill to consolidate in a single independent agency in the executive branch the responsibilities regarding food safety, labeling, and inspection currently divided among several Federal agencies; to the Committee on Governmental Affairs.

THE SAFE FOOD ACT

Mr. DURBIN. Mr. President, today I am introducing legislation that would replace the current fragmented Federal food safety system with a consolidated, independent agency with responsibility for all Federal food safety activities—the Safe Food Act. I am pleased to be joined by Senator TORRICELLI in this important effort.

Make no mistake, our country has been blessed with the safest and most abundant food supply in the world. However, we can do better. The General Accounting Office estimates that as many as 33 million people will suffer food poisoning this year and more than 9,000 will die. The Department of Health and Human Services predicts that foodborne illnesses and deaths are likely to increase 10 to 15 percent over the next decade. The annual cost of foodborne illnesses in this country may rise to as high as $22 billion per year.

According to a Princeton Research survey conducted last summer, 44 percent of Americans believe that the food supply in this country is less safe than it was 10 years ago, while another 30 percent feel it is only "about as safe." The survey also found that 48 percent of Americans are "very concerned" about the safety of the food that they eat.

Currently, 12 different Federal agencies and 35 different laws govern food safety and inspection functions. Of these 12 agencies, six have major roles in carrying out food safety and quality activities. With so many bureaucrats in the kitchen, breakdowns can more easily occur. With overlapping jurisdictions, Federal agencies many times lack accountability on food safety-related issues. A single, independent agency would help focus our policy and improve the enforcement of food safety and inspection laws.

At a time of government downsizing and reorganization, the United States simply can't afford to continue operating multiple systems. In order to achieve a successful, effective food safety and inspection system, a single agency with uniform standards is needed.

The Safe Food Act would empower a single, independent agency to enforce food safety regulations from farm to table. It would provide an easier framework for implementing U.S. standards in an international context. Research could be better coordinated within a single agency rather than among multiple programs. And, new technologies to improve food safety cold be approved more rapidly with one food safety agency.

With incidents of food recalls and foodborne illnesses on the rise, it is important to move beyond short-term solutions to major food safety problems. A single, independent food safety and inspection agency could more easily work toward long-term solutions to the frustrating and potentially life-threatening issue of food safety.

The administration has stepped forward on the issue of food safety—from working with Congress to enact HACCP to increased funding to improve surveillance and monitoring to last week's announcement on the "Fight Bac—Keep Food Safe From Bacteria Campaign" initiative. I commend President Clinton and Secretaries Glickman and Shalala for their commitment to improving our Nation's food safety and inspection systems. A single, independent food safety agency is the logical next step.

Mr. President, together, we can bring the various agencies together to eliminate the overlap and confusion that have, unfortunately, at times characterized our food safety efforts. I encourage my colleagues to join me in this effort to consolidate the food safety and inspection functions of numerous agencies and offices into a single, independent food safety agency.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. MACK, Mr. ABRAHAM, Mr. CONRAD, Mr. LIEBERMAN, Mr. MURKOWSKI, Mrs. BOXER, Mr. ROCKEFELLER, Mrs. FEINSTEIN, Mrs. MURRAY, and Mr. DURBIN):

S. 1464. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes; to the Committee on Finance.

THE RESEARCH AND EXPERIMENTATION CREDIT PERMANENT EXTENSION ACT OF 1997

Mr. HATCH. Mr. President, today I am proud to introduce a bill with my colleagues Senators BAUCUS, MACK, ABRAHAM, CONRAD, LIEBERMAN, BOXER, MURKOWSKI, ROCKEFELLER, FEINSTEIN, MURRAY, and DURBIN to make the tax credit for increasing research activities permanent. Companion legislation has been introduced in the House by Representatives NANCY JOHNSON and ROBERT MATSUI.

The United States is a leader in the development of new technology. Historically, the R&E credit has played a major role in elevating this great Nation to such a significant and influential leadership position. The United States is currently ahead of the ever increasing competition in developing and marketing new products. With greater market challenges in the future, we will have to fight hard to maintain the U.S. lead in new technology and innovation. The role of the R&E tax credit will be increasingly important.

But, we must recognize that scientific breakthroughs usually do not happen overnight. Research and development is a long-term, on-going process. The development of new products and services is the result of slow and steady effort and investment. It is for this reason that start and stop nature of the R&E credit hinders American progress in research. The tax credit is authorized only for a short time—which in science is practically no time at all—and then goes to the brink of expiration before Congress acts to extend it again. Permanent extension of the R&E tax credit would provide badly needed predictability.

Our country provides very little in the way of direct funding for research. While we subsidize basic research to some extent through the National Science Foundation and other science agencies, the United States depends on the private sector to finance applied research to a very substantial degree. This paradigm has worked well. Government does not make decisions about what research to fund or make judgments about what sectors look promising. Yet, risk-taking, particularly in fields such as pharmaceuticals where the cost of developing just one new drug can reach into the hundreds of millions of dollars, is an activity that we encourage with the R&E tax credit.

Without the R&E tax credit, American industry is put at a tremendous disadvantage relative to foreign competitors whose governments provide direct subsidies for research. We simply must not let American leadership in science and technology lapse.

There are enormous benefits from research. Additional investment in research yields new jobs—in some cases entire new industries— strengthens our international position, and often results in an enhanced quality of life for consumers. Simply put, the tax credit is an investment for economic growth and the creation of new jobs.

Mr. President, my home state of Utah is home to many innovative companies that invest a significant percentage of their revenue in research and development activities. Scattered across the Wasatch front is a large stretch of software and computer engineering firms. This area is second only to California's Silicon Valley as a thriving high technology commercial area. Utah also has approximately 700 biotechnology and biomedical firms which employ nearly 9,000 workers. These companies were conceived through research and development and will continue to grow and thrive only if they can continue to afford to take risks.

In all, Mr. President, there are approximately 80,000 employees working in Utah's 1,400 plus and growing technology based firms. Research and development is the lifeblood of these Utah firms and hundreds of thousands more throughout the Nation that are like them.

The research and experimentation tax credit has been on the books for many years, and there is no doubt that it has proved beneficial to our Nation's technology enterprise. But, there is also no doubt that its benefits could be even greater if the credit were made permanent and the perennial uncertainty with respect to the availability of the credit—and thus the cost of doing research—were eliminated.

With the introduction of this bill, I am pleased to inform you that we have included one slight change in this permanent extension. As already established, companies whose research efforts do not qualify them for the credit are allowed to choose the alternative incremental credit. The bill would increase the three alternative incremental credit rates by one percentage point each, thereby spurring tax credit benefits and encouraging more extensive research and development efforts.

I am aware, Mr. President, that not every company that participates in the research and development process benefits from the credit. However, I believe that Congress should never permit the credit to expire. I urge my colleagues to support this concept of a permanent R&E credit by cosponsoring this legislation and support the type of research activities that will maintain American technological leadership into the 21st century.

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. 1464

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

SECTION 1. EXTENSION OF RESEARCH CREDIT.

(a) CREDIT MADE PERMANENT.—

(1) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 45C(b) of such Code is amended by striking subparagraph (D).

(b) INCREASE IN ALTERNATIVE INCREMENTAL CREDIT RATES.—Subparagraph (A) of section 41(c)(4) of the Internal Revenue Code of 1986 is amended—

(1) in clause (i), by striking "1.65 percent" and inserting "2.65 percent",

(2) in clause (ii), by striking "2.2 percent" and inserting "3.2 percent", and

(3) in clause (iii), by striking "2.75 percent" and inserting "3.75 percent".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to amounts paid or incurred after June 30, 1998.

Mr. BAUCUS. Mr. President, it is with great pleasure that I join with my colleague from Utah, Senator HATCH, and my other colleagues to introduce this bill, which is so critical to the ability of American businesses to effectively compete in the global marketplace. Companion legislation has been introduced in the House by Representatives NANCY JOHNSON and ROBERT MATSUI.

Our Nation is the world's undisputed leader in technological innovation, a position that would not be possible absent U.S. companies' commitment to research and development. Investment in research is an investment in our Nation's economic future, and it is appropriate that both the public and private sector share the costs involved, as we share in the benefits. The credit provided through the Tax Code for research expenses provides a modest but crucial incentive for companies to conduct their research in the United States, thus creating high-skilled, high-paying jobs for U.S. workers.

The R&E credit has played a key role in placing the United States ahead of its competition in developing and marketing new products. Every dollar that

the Federal Government spends on the R&E credit is matched by another dollar of spending on research over the short run by private companies, and two dollars of spending over the long run. Our global competitors are well aware of the importance of providing incentives for research, and many provide more generous tax treatment for research and experimentation expenses that does the United States. As a result, while spending on non-defense R&D in the United States as a percentage of GDP has remained relatively flat since 1985, Japan's and Germany's has grown.

The benefits of the credit, though certainly significant, have been limited over the years by the fact that the credit has been temporary. In addition to the numerous times that the credit has been allowed to lapse, last year, for the first time, when Congress extended the credit it left a gap of an entire year during which the credit was not available. This unprecedented lapse sent a troubling signal to the U.S. companies and universities that have come to rely on the Government's longstanding commitment to the credit.

Much research and development takes years to mature. The more uncertain the long-term future of the credit is, the smaller its potential to stimulate increased research. If companies evaluating research projects cannot rely on the seamless continuation of the credit, they are less likely to invest on research in this country, less likely to put money into cutting-edge technology innovation that is critical to keeping us in the forefront of global competition.

Our country is locked in a fierce battle for high-paying technological jobs in the global economy. As more nations succeed in creating educationally advanced workforces and join the United States as high-technology manufacturing centers, they become more attractive to companies trying to penetrate foreign markets. Multinational companies sometimes find that moving both manufacturing and basic research activities overseas is necessary if they are to remain competitive. The uncertainty of the R&E credit factors into their economic calculations, and makes keeping these jobs in the United States more difficult.

Although the R&E credit is not exclusively used by high-technology firms, they are certainly key beneficiaries of the credit. In my own State of Montana, 12 of every 1,000 private sector workers were employed by high-tech firms in 1995, the most recent year for which statistics are available. Almost 400 establishments provided high-technology services, at an average wage of $34,500 per year. These jobs paid 77 percent more than the average private sector wage in Montana of $19,500 per year. Many of these jobs would never have been created without the assistance of the R&E credit. Making the credit permanent would most certainly provide the incentive needed to create many more in the future.

I urge my colleagues to support this legislation, and look forward to working with them and with the administration to make the research and experimentation tax credit permanent.

By Mr. ABRAHAM (for himself, Mr. HUTCHISON, AND Mr. COATS):

S. 1466. A bill to amend the Public Health Service Act to permit faith-based substance abuse treatment centers to receive Federal assistance, to permit individuals receiving Federal drug treatment assistance to select private and religiously oriented treatment, and to protect the rights of individuals from being required to receive religiously oriented treatment; to the Commission on Labor and Human Resources.

THE DRUG AND ALCOHOL ABUSE TREATMENT CHOICE ACT

Mr. ABRAHAM. Mr. President, I rise today to introduce the Effective Substance Abuse Treatment Act. This legislation will increase the variety and effectiveness of drug and alcohol treatment centers. It will do so by allowing faith-based organizations, consistently shown to be most effective at treating substance abuse, to accept Federal funds without sacrificing their religious character. In addition, it will allow individuals receiving drug and alcohol abuse treatment services to choose a faith-based treatment center for their care.

This legislation builds on the charitable choice provision included in last year's welfare bill. That provision allowed faith-based charities to contract with government to supply social services without having to give up their religious character.

Mr. President, each year we face staggering statistics about the use of illegal drugs and the abuse of alcohol. The percentage of teenagers who admitted using illicit drugs during the last month more than doubled between 1992 and 1995. This increase in drug use, especially among young people, demands that we find new ways to address the addiction that often follows. I believe we owe it to our citizens and particularly those addicted to drugs or alcohol, to make the most effective treatment available to them. That treatment is provided by faith-based charities.

Mr. President, government-run drug rehabilitation programs generally have long-run success rates in the single digits. This is a tragedy for addicts, their friends and their families, all of whom are given false hope by institutions that rarely produce the results they promise. However, there are many programs that do work. For example, Burton Fulsom of Michigan's Mackinac Center reports on the Mel Trotter Ministries in Grand Rapids. Named for its former alcoholic founder, the Mel Trotter Ministries has an astounding 70-percent long-term success rate in its faith-based rehabilitation program.

According to director Thomas Laymon, government programs leave addicts without spiritual support. Worse, addicts are not held accountable for addictions, and they have no incentive to change their behavior. Meanwhile, Trotter Ministries provides guidance, a supporter community and integration into a life beyond drugs.

Another successful faith-based substance abuse treatment center is San Antonio's Victory Fellowship, run by Pastor Freddie Garcia. Victory Fellowship has saved thousands of addicts in some of the city's toughest neighborhoods. The program offers addicts a safe haven, a chance to recover, job training, and a chance to provide for themselves and their families. It has served more than 13,000 people and has a success rate of over 80 percent.

It is very simple, Mr. President, where most treatment centers fail, those that are faith-based work. This being the case, we have a duty to make faith-based treatment more available. This does not require any special program, Mr. President. Rather, we can achieve this important goal by allowing faith-based programs to stand on an equal footing with other centers in applying for Federal funds to heal individuals in need without changing the nature of the care they give.

We owe it to our families and communities, torn apart by drugs and drug related violence, to fight the scourge of substance abuse. We owe it to the individuals in need to allow them to obtain the best treatment available. This legislation will achieve these goals without increasing the cost of government. I ask my colleagues for their support.

I ask unanimous consent that the entire text of the bill be entered into the RECORD.

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

S. 1466

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 "Drug and Alcohol Abuse Treatment Choice Act".

SEC. 2. PREVENTION AND TREATMENT OF SUBSTANCE ABUSE; SERVICES PROVIDED THROUGH RELIGIOUS ORGANIZATIONS.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

"PART G—SERVICES PROVIDED THROUGH RELIGIOUS ORGANIZATIONS

"SEC. 581. APPLICABILITY TO DESIGNATED PROGRAMS.

"(a) DESIGNATED PROGRAMS.—Subject to subsection (b), this part applies to each program under this Act that makes awards of Federal financial assistance to public or private entities for the purpose of carrying out

activities to prevent or treat substance abuse (in this part referred to as a 'designated program'). Designated programs include the program under subpart II of part B of title XIX (relating to formula grants to the States).

"(b) LIMITATION.—This part does not apply to any award of Federal financial assistance under a designated program for a purpose other than the purpose specified in subsection (a).

"(c) DEFINITIONS.—For purposes of this part (and subject to subsection (b)):

"(1) DESIGNATED AWARD RECIPIENT.—The term 'designated award recipient' means a public or private entity that has received an award under a designated program (whether the award is a designated direct award or a designated subaward).

"(2) DESIGNATED DIRECT AWARD.—The term 'designated direct award' means an award under a designated program that is received directly from the Federal Government.

"(3) DESIGNATED SUBAWARD.—The term 'designated subaward' means an award of financial assistance made by a non-Federal entity, which award consists in whole or in part of Federal financial assistance provided through an award under a designated program.

"(4) DESIGNATED PROGRAM.—The term 'designated program' has the meaning given such term in subsection (a).

"(5) FINANCIAL ASSISTANCE.—The term 'financial assistance' means a grant, cooperative agreement, contract, or voucherized assistance.

"(6) PROGRAM BENEFICIARY.—The term 'program beneficiary' means an individual who receives program services.

"(7) PROGRAM PARTICIPANT.—The term 'program participant' has the meaning given such term in section 582(a)(2).

"(8) PROGRAM SERVICES.—The term 'program services' means treatment for substance abuse, or preventive services regarding such abuse, provided pursuant to an award under a designated program.

"(9) RELIGIOUS ORGANIZATION.—The term 'religious organization' means a nonprofit religious organization.

"(10) VOUCHERIZED ASSISTANCE.—The term 'voucherized assistance' means—

"(A) a system of selecting and reimbursing program services in which—

"(i) the beneficiary is given a document or other authorization that may be used to pay for program services;

"(ii) the beneficiary chooses the organization that will provide services to him or her according to rules specified by the designated award recipient; and

"(iii) the organization selected by the beneficiary is reimbursed by the designated award recipient for program services provided; or

"(B) any other mode of financial assistance to pay for program services in which the program beneficiary determines the allocation of program funds through his or her selection of one service provider from among alternatives.

"SEC. 582. RELIGIOUS ORGANIZATIONS AS PROGRAM PARTICIPANTS.

"(a) IN GENERAL.—

"(1) SCOPE OF AUTHORITY.—Notwithstanding any other provision of law, a religious organization—

"(A) may be a designated award recipient;

"(B) may make designated subawards to other public or nonprofit private entities (including other religious organizations);

"(C) may provide for the provision of program services to program beneficiaries through the use of voucherized assistance; and

"(D) may be a provider of services under a designated program, including a provider that accepts voucherized assistance.

"(2) DEFINITION OF PROGRAM PARTICIPANT.—For purposes of this part, the term 'program participant' means a public or private entity that has received a designated direct award, or a designated subaward, regardless of whether the entity provides program services. Such term includes an entity whose only participation in a designated program is to provide program services pursuant to the acceptance of voucherized assistance.

"(b) RELIGIOUS ORGANIZATIONS.—The purpose of this section is to allow religious organizations to be program participants on the same basis as any other nonprofit private provider without impairing the religious character of such organizations, and without diminishing the religious freedom of program beneficiaries.

"(c) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.—

"(1) FINDINGS.—The Congress finds that the establishment clause of the first amendment to the Constitution of the United States does not require that—

"(A) social-welfare programs discriminate against faith-based providers of services; or

"(B) faith-based providers of services, as a prerequisite to participation in Federal programs, abandon their religious character and censor their religious expression.

"(2) NONDISCRIMINATION.—Religious organizations are eligible to be program participants on the same basis as any other nonprofit private organization. Neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization that is or applies to be a program participant on the basis that the organization has a religious character.

"(d) RELIGIOUS CHARACTER AND FREEDOM.—

"(1) RELIGIOUS ORGANIZATIONS.—Except as provided in this section, any religious organization that is a program participant shall retain its independence from Federal, State, and local government, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

"(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State shall require a religious organization to—

"(A) alter its form of internal governance; or

"(B) remove religious art, icons, scripture, or other symbols;

in order to be a program participant.

"(e) NONDISCRIMINATION IN EMPLOYMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section shall be construed to modify or affect the provisions of any other Federal or State law or regulation that relates to discrimination in employment on the basis of religion.

"(2) EXCEPTION.—A religious organization that is a program participant may require that an employee rendering programs services adhere to—

"(A) the religious beliefs and practices of such organization; and

"(B) any rules of the organization regarding the use of drugs or alcohol.

"(f) RIGHTS OF PROGRAM BENEFICIARIES.—

"(1) OBJECTIONS REGARDING RELIGIOUS ORGANIZATIONS.—With respect to an individual who is a program beneficiary or a prospective program beneficiary, if the individual objects to a program participant on the basis that the participant is a religious organization, the following applies:

"(A) If the organization received a designated direct award, the organization shall arrange for the individual to receive program services through an alternative entity.

"(B) If the organization received a designated subaward, the non-Federal entity that made the subaward shall arrange for the individual to receive the program services through an alternative program participant.

"(C) If the organization is providing services pursuant to voucherized assistance, the designated award recipient that operates the voucherized assistance program shall arrange for the individual to receive the program services through an alternative provider.

"(D) Arrangements under any of subparagraphs (A) through (C) with an alternative entity shall provide for program services the monetary value of which is not less than the monetary value of the program services that the individual would have received from the religious organization involved.

"(2) NONDISCRIMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or as otherwise provided in law, a religious organization that is a program participant shall not in providing program services discriminate against a program beneficiary on the basis of religion or religious belief.

"(B) LIMITATION.—A religious organization that is a program participant may require a program beneficiary who has elected in accordance with paragraph (1) to receive program services from such organization—

"(i) to actively participate in religious practice, worship, and instruction; and

"(ii) to follow rules of behavior devised by the organizations that are religious in content or origin.

"(g) FISCAL ACCOUNTABILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization that is a program participant shall be subject to the same regulations as other recipients of awards of Federal financial assistance to account, in accordance with generally accepted auditing principles, for the use of the funds provided under such awards.

"(2) LIMITED AUDIT.—With respect to the award involved, if a religious organization that is a program participant maintains the Federal funds in a separate account from non-Federal funds, then only the Federal funds shall be subject to audit.

"(h) COMPLIANCE.—With respect to compliance with this section by an agency, a religious organization may obtain judicial review of agency action in accordance with chapter 7 of title 5, United States Code.

"SEC. 583. LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.

"(a) IN GENERAL.—Except as provided in subsection (b), no funds provided directly to an entity under a designated program shall be expended for sectarian worship or instruction.

"(b) EXCEPTION.—Subsection (a) shall not apply to assistance provided to or on behalf of a program beneficiary if the beneficiary may choose where such assistance is redeemed or allocated.

"SEC. 584. ADMINISTRATION OF PROGRAM AND TREATMENT OF FUNDS.

"(a) FUNDS NOT AID TO INSTITUTIONS.—Financial assistance under a designated program provided to or on behalf of program beneficiaries is aid to the beneficiary, not to the organization providing program services. The receipt by a program beneficiary of program services at the facilities of the organization shall not constitute Federal financial assistance to the organization involved.

"(b) PROHIBITION ON STATE DISCRIMINATION IN USE OF FUNDS.—No provision in any State constitution or State law shall be construed to prohibit the expenditure of Federal funds under a designated program in a religious facility or by a religious organization that is a program participant. If a State law or constitution would prevent the expenditure of State or local public funds in such a facility or by such an organization, then the State or local government shall segregate the Federal funds from State or other public funds for purposes of carrying out the designated program.

"SEC. 585. EDUCATIONAL REQUIREMENTS FOR PERSONNEL IN DRUG TREATMENT PROGRAMS.

"(a) FINDINGS.—The Congress finds that—

"(1) establishing formal educational qualification for counselors and other personnel in drug treatment programs may undermine the effectiveness of such programs; and

"(2) such formal educational requirements for counselors and other personnel may hinder or prevent the provision of needed drug treatment services.

"(b) LIMITATION ON EDUCATIONAL REQUIREMENTS OF PERSONNEL.—

"(1) TREATMENT OF RELIGIOUS EDUCATION.—If any State or local government that is a program participant imposes formal educational qualifications on providers of program services, including religious organizations, such State or local government shall treat religious education and training of personnel as having a critical and positive role in the delivery of program services. In applying educational qualifications for personnel in religious organizations, such State or local government shall give credit for religious education and training equivalent to credit given for secular course work in drug treatment or any other secular subject that is of similar grade level and duration.

"(2) RESTRICTION OF DISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—Subject to paragraph (1), a State or local government that is a program participant may establish formal educational qualifications for personnel in organizations providing program services that contribute to success in reducing drug use among program beneficiaries.

"(B) EXCEPTION.—The Secretary shall waive the application of any educational qualification imposed under subparagraph (A) for an individual religious organization, if the Secretary determines that—

"(i) the religious organization has a record of prior successful drug treatment for at least the preceding 3 years;

"(ii) the educational qualifications have effectively barred such religious organization from becoming a program provider;

"(iii) the organization has applied to the Secretary to waive the qualifications; and

"(iv) the State or local government has failed to demonstrate empirically that the educational qualifications in question are necessary to the successful operation of a drug treatment program.".

By Mr. SMITH of Oregon:

S. 1467. A bill to address the declining health of forests on Federal lands in the United States through a program of recovery and protection consistent with the requirements of existing public land management and environmental laws, to establish a program to inventory, monitor, and analyze public and private forests and their resources, and for other purposes; to the Committee on Energy and Natural Resources.

FOREST RECOVERY AND PROTECTION ACT OF 1997

Mr. SMITH of Oregon. Mr. President, today I am introducing the Senate companion bill to H.R. 2515, the Forest Recovery and Protection Act introduced by my good friend and colleague, Congressman BOB SMITH. My bill focuses on the western forest and Bureau of Land Management lands where there has been the most fire and disease damage.

Let me tell you what the forest lands are like in Oregon. On the eastside of my State, disease and bug infestation have ravaged forests, creating dangerous conditions for catastrophic fires. In 1996, I witnessed firsthand fires that burned vast acres of forest land and threatened many homes. This was a situation that didn't have to happen.

And yet, the political beliefs of a few have seemed to guide forest policy back in Washington, DC—where bureaucrats with personal agendas seem to rule the roost and sound public policy fails to get heard.

Teddy Roosevelt said: "The nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased, and not impaired, in value."

This legislation is a thoughtful approach to forest management—it includes accountability through reports to Congress, performance standards for forest inventory and analysis, and calls for the elimination of bureaucratic red tape and unnecessary delay that prevents on-the-ground results.

Concerns that environmentalists have about cutting of timber are addressed by ensuring that all forest health activities are carried out in compliance with existing forest plans. The legislation also prohibits entry into wilderness areas or other areas protected by law, court order, or forest plan. And finally, the bill provides for priority treatment of areas of greatest risk of destruction or degradation by severe natural disturbance.

The bill has a local component which gives the local community and concerned citizens the ability to identify Federal forest lands in need of recovery and allows them to petition the Secretary of the Interior and the Secretary of Agriculture to conduct forest recovery projects in the identified areas. In addition, money is provided to those agencies responsible for the forests at the local level with the necessary tools and incentives to address forest health problems in pro-active ways.

Furthermore, this legislation requires the Secretary of Agriculture and the Secretary of the Interior to commence a 5-year national program to restore and protect the health of forests located on Federal forest lands. The program includes the following components: Within 1 year of enactment, standards and criteria must be established for designating and assigning priority ranking to forest lands in need of recovery or protection; a requirement that the Secretary to publish in the Federal Register the proposed decisions on lands to be recovered or protected.

The bill also calls for no new forest management plans, but instead enhances existing ones. The bill requires that all forest health plans be carried out in compliance with existing forest plans; sets up an independent Scientific Advisory Panel, consisting of experts in forest management, to evaluate the Advance Recovery Projects which are basically pilot projects in areas of significant recovery or protection need as identified by the Secretary of the Interior and Secretary of Agriculture.

And finally, one of the most important components of this legislation is the inclusion of local citizens and the prioritization that directs more money on the ground. This component allows local citizens to petition the Secretary of the Interior and the Secretary of Agriculture in identifying problems in forests, such as dead and diseased timber; provides more money to the local levels of the agencies responsible for the forests.

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. 1467

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Forest Recovery and Protection Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. National Program of Forest Recovery and Protection.
Sec. 5. Scientific Advisory Panel.
Sec. 6. Advance recovery projects.
Sec. 7. Forest Recovery and Protection Fund for National Forest System lands.
Sec. 8. Expansion of purpose of Forest Ecosystems Health and Recovery Fund for BLM lands.
Sec. 9. Effect of failure to comply with time limitations.
Sec. 10. Authorization of appropriations.
Sec. 11. Audit requirements.

SEC. 2. FINDINGS.

Congress finds the following:

(1) There are tradeoffs in values associated with proactive, passive, or delayed forest management, but the values gained by proactive management outweigh the values gained by delayed or passive management of certain Federal forest lands.

(2) Increases in both the number and severity of wildfire, insect infestation, and disease

outbreaks on Federal forest lands are occurring as a result of high tree densities, species composition, and structure that are outside the historic range of variability. These disturbances cause or contribute to significant soil erosion, degradation of air and water quality, loss of watershed values, habitat loss, and damage to other forest resources.

(3) Serious forest health problems occur in all regions of the United States. Management activities to restore and protect forest health are needed in each region and should be designed to address region-specific needs.

(4) Between 35,000,000 and 40,000,000 of the 191,000,000 acres of Federal forest lands managed by the Forest Service are at an unacceptable risk of destruction by catastrophic wildfire. Additional tens of millions of Bureau of Land Management lands are in the same situation. The condition of these forests can pose a significant threat of destruction to human life as well as fish and wildlife habitats, public recreation areas, timber, and other important forest resources.

(5) Restoration of forest health requires active forest management involving a range of management activities, including thinning, salvage, prescribed fire (after appropriate thinning), insect and disease control, riparian and other habitat improvement, soil stabilization and other water quality improvement, and seedling planting and protection.

(6) A comprehensive, nationwide effort is needed to address forest health decline in an organized, timely, and scientific manner. There should be immediate action to improve the areas of Federal forest lands where forest health decline has been thoroughly inventoried and assessed or where serious resource destruction or degradation by natural disturbance is imminent.

(7) Frequent forest inventory and analysis of the status and trends in the conditions of forests and their resources are needed to identify and reverse declining forest health in a timely and effective manner. The present average 12- to 15-year cycle of forest inventory and analysis to comply with existing statutory requirements is too prolonged to provide forest managers with the data necessary to make timely and effective management decisions, particularly decisions responsive to changing forest health conditions.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) FEDERAL FOREST LANDS.—The term "Federal forest lands" means—

(A) forested lands created from the public domain that are under the jurisdiction of the Bureau of Land Management; and

(B) forested lands created from the public domain that are within the National Forest System.

(2) SECRETARY CONCERNED.—The term "Secretary concerned" means—

(A) with respect to Federal forest lands described in paragraph (1)(A), the Secretary of the Interior or the Secretary's designee; and

(B) with respect to Federal forest lands described in paragraph (1)(B), the Secretary of Agriculture or the Secretary's designee.

(3) LAND MANAGEMENT PLAN.—The term "land management plan" means—

(A) a land use plan prepared by the Bureau of Land Management pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), or other multiple use plan in effect, for a unit of the Federal forest lands described in paragraph (1)(A); or

(B) a land and resource management plan (or, if no final plan is in effect, a draft land and resource management plan) prepared by the Forest Service pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) for Federal forest lands described in paragraph (1)(B).

(4) NATIONAL PROGRAM.—The term "national program" means the National Program of Forest Recovery and Protection required by section 4.

(5) SCIENTIFIC ADVISORY PANEL.—The term "Scientific Advisory Panel" means the advisory committee appointed under section 5.

(6) RECOVERY AREA.—The term "recovery area" means an area of Federal forest lands, designated by the Secretary concerned under section 4(c)—

(A) that has experienced disturbances from wildfires, insect infestations, wind, flood, or other causes, which have caused or contributed to significant soil erosion, degradation of water quality, loss of watershed values, habitat loss, or damage to other forest resources of the area; or

(B) in which the forest structure, function, or composition has been altered so as to increase substantially the likelihood of wildfire, insect infestation, or disease in the area and the consequent risks of damage to soils, water quality, watershed values, habitat, and other forest resources from wildfire, insect infestation, or disease.

(7) RECOVERY PROJECT.—The terms "recovery project" and "forest health recovery project" mean a project designed by the Secretary concerned to improve, preserve, or protect the soils, water quality, watershed values, habitat, and other forest resources within a designated recovery area, including stand thinning, salvage, and other harvesting activities, as well as activities in which the cutting of trees is not primarily featured, such as prescribed burning (after appropriate thinning), insect and disease control, riparian and other habitat improvement, soil stabilization and other water quality improvement, and seedling planting and protection.

(8) IMPLEMENTATION DATE.—The term "implementation date" means the first day of the first month beginning after the end of the 18-month period beginning on the date of enactment of this Act. However, if the implementation date would occur within 6 months before August 31 of the same fiscal year in which the implementation date would occur, the Secretary concerned may deem that August 31 to be the implementation date.

(9) FUND.—The terms "Fund" and "affected Fund" mean—

(A) with respect to implementation of the national program on Federal forest lands described in paragraph (1)(A), the revolving fund established under the heading "(REVOLVING FUND, SPECIAL ACCOUNT)" under the heading "FOREST ECOSYSTEMS HEALTH AND RECOVERY" under the heading "BUREAU OF LAND MANAGEMENT" in title I of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102-381; 106 Stat. 1376; 43 U.S.C. 1736a); and

(B) with respect to implementation of the national program on Federal forest lands described in paragraph (1)(B), the Forest Recovery and Protection Fund established under section 7.

SEC. 4. NATIONAL PROGRAM OF FOREST RECOVERY AND PROTECTION.

(a) NATIONAL PROGRAM REQUIRED.—Not later than the implementation date, the Secretary concerned shall commence a national program to restore and protect the health of forests located on Federal forest lands in the United States through the performance of recovery projects in designated recovery areas.

(b) STANDARDS AND CRITERIA.—

(1) INITIAL PUBLICATION.—Not later than the implementation date, the Secretary concerned shall publish in the Federal Register the standards and criteria to be used for the designation of, and the assignment of management priority rankings to, recovery areas. In establishing the standards and criteria, the Secretary concerned shall consider the standards and criteria recommended by the Scientific Advisory Panel under section 5. The Secretary concerned shall include in the Federal Register entry required by this paragraph an explanation of any significant differences between the recommendations of the Scientific Advisory Panel and the standards and criteria actually established by the Secretary concerned.

(2) MODIFICATION.—The Secretary concerned may modify the standards and criteria established pursuant to paragraph (1). Any such modification shall also be published in the Federal Register.

(c) ANNUAL NATIONAL PROGRAM DECISION.—

(1) DECISION REQUIRED.—To carry out the national program, the Secretary concerned shall render a decision for each fiscal year during the period of the national program regarding the designation and ranking of recovery areas and the selection of recovery projects for inclusion in the national program. In rendering the decision, the Secretary concerned shall comply with the requirements of subsections (d) and (e).

(2) PROPOSED DECISION.—For each fiscal year during the period of the national program, the Secretary concerned shall publish in the Federal Register a proposed decision regarding the designation and ranking of recovery areas and the selection of recovery projects. The proposed decision shall be published not later than the following:

(A) In the case of the initial proposal, the implementation date.

(B) In the case of each subsequent proposed decision, August 31 of each fiscal year after the fiscal year in which the implementation date occurs.

(3) FINAL DECISION.—Not later than 120 days after the date on which the proposed decision of the Secretary concerned is published for a fiscal year under paragraph (2), the Secretary concerned shall publish in the Federal Register the final decision of the Secretary concerned for that fiscal year regarding the designation and ranking of recovery areas and the selection of recovery projects (including the determinations required under subsection (e)(3)).

(d) REQUIREMENTS FOR AREA DESIGNATION AND RANKING.—In making the annual decision required by subsection (c), the Secretary concerned shall, in accordance with the standards and criteria established and in effect under subsection (b)—

(1) determine the total acreage requiring treatment under the national program during the fiscal year;

(2) identify recovery areas within which recovery projects would be appropriate; and

(3) rank the recovery areas for the purpose of determining the order in which the recovery areas will receive recovery projects.

(e) REQUIREMENTS FOR RECOVERY PROJECT SELECTION.—

(1) COMPLIANCE WITH LAND MANAGEMENT PLANS.—In making the annual decision required by subsection (c), the Secretary concerned shall ensure that each recovery project selected is consistent with the land management plan applicable to the recovery area within which the project will occur.

(2) CONSIDERATION OF ECONOMIC BENEFITS.—In the selection of forest health recovery projects, the Secretary concerned shall consider the economic benefits to be provided to

local communities as a result of the forest health recovery projects, but only to the extent that such considerations are consistent with the standards and criteria for recovery areas established and in effect under subsection (b) and the priorities for ranking recovery areas under subsection (d)(3).

(3) TREATMENT ACREAGE AND COSTS.—As part of the selection of each forest project, the Secretary concerned shall determine the total acreage requiring treatment and the estimated costs for preparation and implementation of the project.

(4) TOTAL ACREAGE.—The total acreage included in recovery projects selected for a fiscal year under the national program shall not be less than the total acreage determined by the Secretary concerned under paragraphs (2) and (3) of subsection (c).

(5) PROHIBITED PROJECT LOCATIONS.—The Secretary concerned may not select or implement a recovery project under the authority of this Act in any unit of the National Wilderness Preservation System, any roadless area on Federal forest lands designated by Congress for study for possible inclusion in such System, or any other area in which the implementation of recovery projects is prohibited by law, a court order, or the applicable land management plan.

(f) PETITION PROCESS.—

(1) REQUEST FOR DESIGNATION.—Not later than May 31 of each fiscal year after the fiscal year in which the implementation date occurs, any interested person may petition the Secretary concerned to designate a specific area of the Federal forest lands of at least 1,000 acres in size as a recovery area.

(2) CONTENT.—The petition shall contain a reasonably precise description of the boundaries of the area included in the petition and the reasons why the petitioner believes the area meets the standards and criteria, established pursuant to subsection (b), required for designation as a recovery area.

(3) DETERMINATION.—If the Secretary concerned determines that an area described in a petition under this subsection warrants designation as a recovery area, the Secretary concerned shall include the area in the proposed and final decisions issued under paragraphs (2) and (3) of subsection (c). If the Secretary concerned determines that the area does not warrant designation as a recovery area, the Secretary concerned shall provide the reasons therefor in the same Federal Register entry containing the proposed or final decision under such subsection.

(g) ANNUAL REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—Not later than the implementation date, and each August 31 thereafter, the Secretary concerned shall submit to Congress a report on the proposed decision regarding the designation and ranking of recovery areas and the selection of recovery projects to be published pursuant to subsection (c)(2).

(2) REPORT CONTENTS.—Each report required by paragraph (1) shall include the following:

(A) The reasons for each proposed designation of a recovery area and each proposed selection of a recovery project.

(B) The total acreage requiring treatment nationally during the fiscal year and the acreage proposed to be treated during that fiscal year by each proposed recovery project.

(C) The estimated preparation and implementation costs of each proposed recovery project.

(3) ADDITIONAL REQUIREMENTS.—After the initial report required by paragraph (1), each subsequent report shall also include the following:

(A) A description of the improvements to forest health achieved by each completed recovery project.

(B) An explanation of why any proposed recovery projects covered by the previous report were not begun, undertaken, or completed as scheduled.

(C) A comparison of projected and actual preparation and implementation costs for each completed recovery project.

(D) A description of the economic benefits to local communities achieved by each completed recovery project.

(4) NOTICE OF AVAILABILITY.—The Federal Register entry required for each fiscal year under subsection (c)(2) shall contain a notice of availability of the most recent report to Congress required by this subsection.

(h) EXCEPTIONS TO AGENCY ACTION.—The following do not constitute agency action for purposes of implementing or carrying out the provisions of this Act:

(1) The establishment and publication in the Federal Register of standards and criteria to be used for the designation and ranking of recovery areas under subsection (b).

(2) The proposed decision of the Secretary to designate and rank recovery areas and to select recovery projects under subsection (c) and the publication of such proposed decision in the Federal Register.

(3) The preparation and submission of the annual report to Congress under subsection (g).

(i) RULEMAKING.—To ensure commencement of the national program by the implementation date, the Secretary concerned shall promulgate rules governing operation of the national program by that date. The rules shall address the development of procedures that, within the discretion provided by other laws, would permit the Secretary concerned to make the final decision on the designation and ranking of recovery areas and the selection of recovery projects within the 120-day period required by subsection (c)(3).

SEC. 5. SCIENTIFIC ADVISORY PANEL.

(a) ESTABLISHMENT.—There is established a panel of scientific advisers to the Secretary of Agriculture and the Secretary of the Interior to be known as the "Scientific Advisory Panel".

(b) MEMBERSHIP.—The Scientific Advisory Panel shall consist of the following members:

(1) 2 members, consisting of 1 scientist specializing in natural resources and 1 State forester (or an individual with similar management or supervisory experience), appointed jointly by the Chairman of the Committee on Agriculture and the Chairman of the Committee on Resources of the House of Representatives, in consultation with their respective ranking Minority Members.

(2) 2 members, consisting of 1 scientist specializing in natural resources and 1 State forester (or an individual with similar management or supervisory experience), appointed jointly by the Chairman of the Committee on Agriculture, Nutrition, and Forestry and the Chairman of the Committee on Energy and Natural Resources of the Senate, in consultation with their respective ranking Minority Members.

(3) 2 members, consisting of 1 scientist specializing in natural resources and 1 State forester (or an individual with similar management or supervisory experience), appointed by the Secretary of Agriculture.

(4) 2 members, consisting of 1 scientist specializing in natural resources and 1 State forester (or individual with similar management or supervisory experience), appointed by the Secretary of the Interior.

(5) 1 member, consisting of a scientist specializing in natural resources, appointed by the National Academy of Sciences.

(c) APPOINTMENT.—

(1) TIME FOR APPOINTMENT.—Appointments shall be made within 90 days after the date of the enactment of this Act. Appointments shall be published in the Federal Register.

(2) TERM.—A member of the Scientific Advisory Panel shall be appointed for a term beginning on the date of the appointment and ending on the implementation date. A vacancy on the Scientific Advisory Panel shall be filled within 90 days in the manner in which the original appointment was made.

(d) QUALIFICATIONS.—

(1) NATURAL RESOURCE SCIENTISTS.—Scientists who are appointed as members of the Scientific Advisory Panel shall be required to have expertise in, and experience with, matters related to forest health, taking into account their breadth of knowledge in the natural sciences as such sciences relate to Federal forest lands and their familiarity with specific issues regarding Federal forest lands likely to be designated as recovery areas.

(2) OTHER MEMBERS.—State foresters (or individuals with similar management or supervisory experience) who are appointed as members of the Scientific Advisory Panel shall be required to have expertise with, and experience in, matters relating to forest management, taking into account their breadth of knowledge in management science and their familiarity with specific issues regarding Federal forest lands likely to be designated as recovery areas.

(e) CHAIRPERSON; INITIAL MEETING.—The Scientific Advisory Panel shall conduct its initial meeting as soon as possible after the first 4 members of the Panel are appointed. At the initial meeting, the members of the Scientific Advisory Panel shall select 1 member to serve as chairperson.

(f) DUTIES IN CONNECTION WITH IMPLEMENTATION.—During the period beginning on the initial meeting of the Scientific Advisory Panel and ending on the implementation date, the Scientific Advisory Panel shall be responsible for the following:

(1) The preparation and submission to the Secretary concerned and the Congress of recommendations regarding the standards and criteria that should be used to designate recovery areas.

(2) The preparation and submission to the Secretary concerned and the Congress of recommendations regarding the ranking of recovery areas in the order in which the areas should host recovery projects.

(3) The preparation of and submission to the Secretary concerned and the Congress of a monitoring plan for the national program of sufficient duration to determine the long-term impacts of the national program.

(g) CONSIDERATIONS.—In the development of its recommendations under subsection (f), the Scientific Advisory Panel shall consider—

(1) the most current scientific literature regarding the duties undertaken by the Panel; and

(2) information gathered during the implementation of the advance recovery projects required under section 6.

(h) ALLOCATION OF FOREST SERVICE AND BUREAU OF LAND MANAGEMENT PERSONNEL.—The Forest Service and the Bureau of Land Management shall allocate administrative support staff to the Scientific Advisory

Panel to assist the Panel in the performance of its duties as outlined in this section.

(i) FEDERAL ADVISORY COMMITTEE ACT COMPLIANCE.—The Scientific Advisory Panel shall be subject to sections 10 through 14 of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 6. ADVANCE RECOVERY PROJECTS.

(a) SELECTION OF ADVANCE PROJECTS.—During the 18-month period beginning on the date of enactment of this Act, the Secretary concerned shall conduct a limited number (as determined by the Secretary concerned) of advance recovery projects on Federal forest lands. Subject to the approval of the Secretary concerned, advance recovery projects shall be selected by—

(1) regional foresters of the Forest Service, in consultation with State foresters of the States in which the projects will be conducted, with respect to recovery projects on Federal forest lands described in section 3(1)(B); and

(2) State directors of the Bureau of Land Management, in consultation with State foresters of the States in which the projects will be conducted, with respect to recovery projects on Federal forest lands described in section 3(1)(A).

(b) SELECTION CRITERIA.—To be eligible for selection as an advance recovery project, a proposed project shall be required to satisfy the requirements of section 4(e) for recovery projects conducted under the national program. Priority shall be given to those Federal forest lands—

(1) that pose a significant risk of loss to human life and property or serious resource degradation or destruction due to wildfire, disease epidemic, or severe insect infestation; or

(2) for which thorough forest health assessments and inventories have been completed, including Federal forest lands in the Pacific Northwest, the Interior Columbia Basin, the Sierra Nevada, the Southern Appalachian Region, and the Northern Forests of Maine, Vermont, New Hampshire, and New York.

(c) TIME PERIODS FOR SELECTION, IMPLEMENTATION, AND COMPLETION.—Final selection of advance recovery projects shall be completed within the 90-day period beginning on the date of enactment of this Act, and the Secretary concerned shall publish the list of selected advance recovery projects in the Federal Register by the end of that period. An advance recovery project shall be initiated (if the project is to be conducted by Federal employees) or awarded (if the project is to be conducted by an outside party) within 180 days after the date of enactment of this Act.

(d) REPORTING REQUIREMENTS.—Not later than the implementation date, and annually thereafter until completion of all advance recovery projects, the Secretary concerned shall submit to Congress a report on the implementation of advance recovery projects. The report shall consist of a description of the accomplishments of each advance recovery project and incorporate the requirements under paragraphs (2) and (3) of section 4(g).

(e) RULEMAKING.—No new rulemaking is required in order for the Secretary concerned to carry out this section.

SEC. 7. FOREST RECOVERY AND PROTECTION FUND FOR NATIONAL FOREST SYSTEM LANDS.

(a) ESTABLISHMENT.—There is established on the books of the Treasury a revolving fund to be known as the "Forest Recovery and Protection Fund". The Chief of the Forest Service shall be responsible for administering the Fund.

(b) CREDITS TO FUND.—There shall be credited to the Fund the following:

(1) Amounts authorized for and appropriated to the Fund.

(2) Unobligated amounts in the roads and trails fund provided for in the fourteenth paragraph under the heading "FOREST SERVICE." of the Act of March 4, 1913 (37 Stat. 843, chapter 145; 16 U.S.C. 501) as of the date of enactment of this Act, and all amounts that would otherwise be deposited in such fund after such date.

(3) A 1-time transfer of $50,000,000 from amounts appropriated for fire operations under the heading "WILDLAND FIRE MANAGEMENT" under the heading "BUREAU OF LAND MANAGEMENT" in title I of the Department of the Interior and Related Agencies Appropriations Act, 1998.

(4) Subject to subsection (e), revenues generated by recovery projects undertaken pursuant to sections 4 and 6.

(5) Amounts required to be deposited in the Fund under section 9.

(c) USE OF FUND.—During the time period specified in section 10(a), amounts in the Fund shall be available to the Chief of the Forest Service, without further appropriation, to carry out the national program, to plan, carry out, and administer recovery projects under sections 4 and 6, and to administer the Scientific Advisory Panel.

(d) LIMITATION ON OVERHEAD EXPENSES.—Overhead expenses for a fiscal year for administration of the national program, including the cost of preparation of reports required by this Act and administration of the Fund, shall not exceed 12 percent of the amounts made available from the Fund for that fiscal year. In addition, not more than $1,000,000 may be expended from the Fund to finance the operation of the Scientific Advisory Panel.

(e) TREATMENT OF REVENUES AS MONEYS RECEIVED.—Revenues generated by recovery projects undertaken pursuant to sections 4 and 6 shall be considered to be money received for purposes of the sixth paragraph under the heading "FOREST SERVICE." in the Act of May 23, 1908 (35 Stat. 260, chapter 192; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (commonly known as the "Weeks Act") (36 Stat. 963, chapter 186; 16 U.S.C. 500).

(f) CONFORMING AMENDMENT.—The fourteenth paragraph under the heading "FOREST SERVICE." of the Act of March 4, 1913 (37 Stat. 843, chapter 145; 16 U.S.C. 501), is amended by adding at the end the following: "During the term of the Forest Recovery and Protection Fund, as established by section 7 of the Forest Recovery and Protection Act of 1997, amounts reserved under the authority of this paragraph shall be deposited into that Fund.".

SEC. 8. EXPANSION OF PURPOSE OF FOREST ECOSYSTEMS HEALTH AND RECOVERY FUND FOR BLM LANDS.

The first paragraph under the heading "(REVOLVING FUND, SPECIAL ACCOUNTS)" under the heading "FOREST ECOSYSTEMS HEALTH AND RECOVERY" under the heading "BUREAU OF LAND MANAGEMENT" in title I of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102-381; 106 Stat. 1376; 43 U.S.C. 1736a), is amended by adding at the end the following: "During the term of the National Program of Forest Recovery and Protection established by the Forest Recovery and Protection Act of 1997, unobligated amounts in the fund shall be available to carry out the national program and to plan, carry out, and administer recovery projects under sections 4 and 6 of that Act.".

SEC. 9. EFFECT OF FAILURE TO COMPLY WITH TIME LIMITATIONS.

(a) NATIONAL PROGRAM.—If the final selection of a recovery project under the national program is not made within the time period specified in section 4(c)(3), the Secretary concerned may not use amounts in the affected Fund to carry out the project and shall promptly reimburse the affected Fund for any expenditures previously made from that Fund in connection with the project.

(b) ADVANCE RECOVERY PROJECTS.—In the case of an advance recovery project under section 6, if the project is not selected, implemented, and completed within the time periods specified in subsection (c) of that section, the Secretary concerned may not use amounts in the affected Fund to carry out the project and shall promptly reimburse the affected Fund for any expenditures previously made from that Fund in connection with the project.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal year 1998 and each fiscal year thereafter through the fifth full fiscal year following the implementation date.

(b) DEPOSIT IN FUND.—All sums appropriated pursuant to this section for implementation of the national program on Federal forest lands described in section 3(1)(B) shall be deposited in the Forest Recovery and Protection Fund established under section 7. All sums appropriated pursuant to this section for implementation of the national program on Federal forest lands described in section 3(1)(A) shall be deposited in the revolving fund established under the heading "(REVOLVING FUND, SPECIAL ACCOUNTS)" under the heading "FOREST ECOSYSTEMS HEALTH AND RECOVERY" under the heading "BUREAU OF LAND MANAGEMENT" in title I of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102-381; 106 Stat. 1376; 43 U.S.C. 1736a).

(c) EFFECT ON EXISTING PROJECTS.—Any contract regarding a recovery project entered into before the end of the final fiscal year specified in subsection (a), and still in effect at the end of such fiscal year, shall remain in effect until completed pursuant to the terms of the contract.

SEC. 11. AUDIT REQUIREMENTS.

(a) AUDIT REQUIRED.—The Comptroller General shall conduct an audit of the national program at the end of the fourth-full fiscal year of the national program and submit such audit to the Congress by June 1 of the next fiscal year.

(b) ELEMENTS.—The audit shall include an analysis of—

(1) whether the program was carried out in a manner consistent with the provisions of this Act;

(2) the impact on the development and implementation of the national program of the advance recovery projects conducted under section 6;

(3) the extent to which the recommendations of the Scientific Advisory Panel were used to develop and implement the national program;

(4) the current and projected future financial status of each Fund; and

(5) the cost savings and efficiencies achieved under the national program.

By Mr. BINGAMAN:

S. 1468. A bill to provide for the conveyance of one (1) acre of land from

Santa Fe National Forest to the Village of Jemez Springs, New Mexico, as the site of a fire sub-station; to the Committee on Energy and Natural Resources.

S. 1469. A bill to provide for the expansion of the historic community of El Rito, New Mexico, through the special designation of five acres of Carson National Forest adjacent to the cemetery; to the Committee on Energy and Natural Resources.

JEMEZ SPRINGS FIRE SUB-STATION AND EL RITO CEMETERY LEGISLATION

Mr. BINGAMAN. Mr. President, I rise today to introduce two bills that would have a significant impact on two communities within northern New Mexico. The villages of Jemez Springs, and El Rito, NM, are small communities that are completely surrounded by Forest Service land. Despite the fact that their populations are not growing rapidly, they do have some specific land needs; some of which are actually caused by their proximity to national forest land.

For example, on any given weekend, the Jemez National Recreation Area, within the Santa Fe National Forest will have over 50,000 visitors. Village of Jemez Springs is the only community wholly within the Jemez National Recreation Area. As such, this community of 460 people is often called upon for assistance with emergencies within the national forest. In fact, over 90 percent of the village's fire responses, emergency rescues, and ambulance calls are outside the town limits, placing enormous strain on the village's resources. To help address this problem, in 1996, the State of New Mexico provided funds to Jemez Springs to build a fire substation which would house three emergency vehicles. However, Jemez Springs does not have a suitable location for this facility, nor does the village have the tax base available to buy land for it.

Mr. President, what this first bill would do is to acknowledge the services that the Santa Fe National Forest currently receives from the village of Jemez Springs, and the additional benefit that a fire substation would provide to visitors to the forest. In recognition of these benefits, my bill would transfer one acre of land to Jemez Springs for use as the site of a fire substation.

Mr. President, my second bill concerns the venerable customs and religious practices of the people of El Rito, NM. El Rito is a community of a little over 2,000 people nestled within the Carson National Forest in New Mexico. It is a community that has existed for hundreds of years, that is now running out of space. Specifically the El Rito cemetery, where people have buried their dead for generations, is full. As a result, the residents of El Rito must now obtain special permission from the Forest Service in order to bury their family members on Forest Service land that is adjacent to their cemetery. This situation has created what can only be described as an unbecoming bureaucratic burden upon families just at the time that they are grieving.

To solve this problem, my first thought was to transfer a small portion of land from the Forest Service to El Rito for their cemetery. However despite its age, the community of El Rito is not an incorporated town so the Forest Service would not have a legal public entity to transfer the land to. In order to solve this problem, my bill does not transfer the land, but rather it recognizes the historic nature of this cemetery, and designates five acres of adjacent Forest Service land as special use land for expansion of that cemetery. This will remove the need for the residents of El Rito to obtain a special use permit each time someone dies.

Mr. President, I think all of the New Mexico delegation realizes that both of the problems addressed by these bills need to be resolved. In fact, the House has passed a bill concerning these two issues which was originally sponsored by former Representative Richardson, and is currently sponsored by Representative REDMOND. However in response to concerns raised by the Forest Service, the bill as passed by the House would require these small communities to either exchange land of equal value or pay for these lands. Mr. President I think the reality here is that being surrounded by Forest Service land, that it will be next to impossible for these communities to find land of equal value to exchange. These communities also do not have the financial resources for outright purchases of property.

I believe that the way my two bills are written can meet the concerns of the Forest Service and still resolve the underlying problems these communities are facing. I am committed to working with other Members of the delegation to move this legislation as quickly as possible.

Mr. President I ask unanimous consent that these two bills be entered into the RECORD.

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

S. 1468

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

SECTION 1. FINDINGS.

(a) The Village of Jemez Springs, New Mexico, (Jemez Springs) is an incorporated town under the laws of the State of New Mexico, and is completely surrounded the Jemez National Recreation Area within the Santa Fe National Forest;

(b) Jemez Springs is a small community of approximately 460 residents, however given it's location within the Jemez National Recreation Area, as many as 30,000 people will pass through this town on any given day;

(c) The large size of the tourist crowds within the surrounding national recreation area create a strain on Jemez Springs' emergency response capabilities. Over ninety (90) percent of the ambulance, fire, and emergency rescue calls are outside of the town limits.

(d) The State of New Mexico has appropriated funds for Jemez Springs to build a fire sub-station to handle the increase in emergency response needs, however, the town does not have suitable land upon which to build the sub-station.

SEC. 2 LAND CONVEYANCE, SANTA FE NATIONAL FOREST, NEW MEXICO

(a) CONVEYANCE.—The Secretary of Agriculture shall convey, to Jemez Springs all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately one acre located in the Santa Fe National Forest in the State of New Mexico. The emergency services provided by Jemez Springs to the visitors of the Santa Fe National Recreation Area shall be deemed adequate consideration to the United States for the purposes of this conveyance.

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that Jemez Springs agrees to use the real property for the purpose of constructing and operating a fire sub-station for Jemez Springs.

(c) REVERSIONARY INTEREST.—If the Secretary determines that the real property conveyed under subsection (a) is not being used in accordance with the condition in subsection (b), all right, title, and interest in and to the property shall revert to the United States, and the United States shall have immediate right of entry thereon.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by Jemez Springs.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

S. 1469

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

Section 1. Findings.

(a) The village of El Rito, New Mexico, (El Rito) is a small community of approximately 2,500 residents, completely surrounded by the Carson National Forest in New Mexico.

(b) The historic community cemetery of El Rito is adjacent to the lands of the Carson National Forest in New Mexico. After generations of use, there is no more available space left in the cemetery and the community members are required to get special use permits to bury their deceased on Forest Service land.

(c) The requirement for special use permits creates an undue bureaucratic requirement upon families within the El Rito community when they are suffering from grief.

Sec. 2. Designation of Lands.

The Secretary of Agriculture, acting through the United States Department of Agriculture Forest Service shall designate five acres of land in the Carson National Forest adjacent to the historic El Rito cemetery as special use land for use as cemetery land for members of the El Rito community to bury their deceased.

By Mr. GRAHAM:

S. 1471. A bill to prohibit the Secretary of Health and Human Services from treating any Medicaid-related funds recovered as part of State litigation from one or more tobacco companies as an overpayment under the Medicaid Program; to the Committee on Finance.

MEDICAID LEGISLATION

Mr. GRAHAM. Mr. President, I rise for the purpose of introducing legislation which has been necessitated by a relatively arcane provision in the Social Security Act. That provision, Mr. President, is section 1903(d)3 which states that "the pro-rata share to which the United States is equitably entitled" as determined by the secretary—this would be the Secretary of HHS—"of the net amount recovered during any quarter by a State or any political subdivision thereof with respect to medical assistance furnished

under the State plan shall be considered an overpayment to be adjusted under this subsection."

Under that provision, Mr. President, the Health Care Financing Administration has sent a letter to the States stating that they will now be responsible for providing to the Federal Government through an offset against their otherwise entitled funds under Medicaid, the health financing program for the poor, that portion of any recovery that they have made under a tobacco settlement that would be attributable to the Federal Government's share of previous payments for those Medicaid beneficiaries who had been deemed to have suffered a disease or illness related to tobacco.

The letter states, Mr. President, that "under current law," the law that I have just read, "tobacco settlement recoveries must be treated like any other Medicaid recoveries."

Mr. President, this is a situation which cries out for congressional attention. In the past, that section that I read had been interpreted to apply to those cases where there had been a billing error, where some Medicaid provider had overstated their reimbursement, the State had taken action to reduce that request for payment and had received funds from the provider that had been inappropriately paid in a previous account. This will be the first time that this section of the law is being used to really go to policy questions, and that is, what is the Federal Government's share of these tobacco settlements which have been negotiated by the States?

I believe that the reasons that Congress should take action on this are several. First, this is a policy issue and should not be settled at a bureaucratic level, applying a statute that was written to deal with much different, much less policy-oriented issues as the question of the State and Federal share of State-initiated tobacco settlements.

I will read, Mr. President, from a letter dated November 7 to the President and signed by nine of our Nation's Governors in which they state:

> The issue of control of the settlement funds will be difficult to resolve, and clearly a discussion of the distribution of hundreds of billions of dollars demands congressional involvement. Unfortunately, it appears that the Health Care Financing Administration is not prepared to wait for Congress to act.

Then the letter goes on to recount the fact that on November 3 the Health Care Financing Administration contacted the State Medicaid directors to begin the process of collecting what it, the Health Care Financing Administration, perceives to be the Federal portion of settlement funds attributable to Medicaid.

Second, the reality is that the Federal Government has known about these suits initiated by the States since their pendency. In the case of the State of Florida, that means approximately 4 years. But the Federal Government has been passive. It did not ask or respond to requests to be listed as a coplaintiff and therefore be actively involved in litigation. It has provided none of the financing of the litigation, which in some cases has amounted to tens of millions of dollars, and yet now after a successful recovery, it wants to insert itself through this provision, that was designed to deal with reimbursements of minor amounts, to collect major amounts under these tobacco settlements.

Finally, the Federal Government is not restricted from initiating its own effort to collect what funds it thinks it is due from the tobacco settlements. If the Federal Government feels—whether it is Medicare; programs under CHAMPUS, the health care for military personnel and their dependents; the Veterans Administration; or any other program in which the Federal Government is paying all or a substantial portion of health care costs—if the Federal Government feels that it has a legitimate case for recovery, it ought to do the same thing that the States have done, and that is initiate direct action toward such a recovery. But it is unseemly for the Federal Government to now be coming in after the fact and trying to collect on the good efforts that the States have taken.

I have met with representatives of the White House and will continue to meet to determine if it is felt that specific legislation might be required in order to give the Federal Government the potential to recover those funds that the national taxpayers have paid which they should not have paid because they were due to illnesses or disease occasioned by the use of tobacco. I suggest that the representatives of the White House look closely at State legislation such as that which was passed in Florida, upon which Florida's successful settlement was predicated.

Mr. President, I will be sending to the desk legislation which will state that the provision that I cited and other provisions analogous to it shall not apply to any amount recovered or paid to a State as part of a settlement or judgment reached in litigation initiated or pursued by a State against one or more manufactures of tobacco products. This would clearly state that as a matter of congressional policy it was not our intention that that arcane accounting provision should be applied to a major policy issue such as the allocation of funds between the Federal Government and the States that were recovered as a result of State-initiated litigation against a tobacco company.

Rather, that is an issue which should be resolved by the policymakers before the Federal Government; that is, the United States Congress, in appropriate consultation with the President.

So, Mr. President, I send this legislation to the desk and ask for its immediate referral.

The PRESIDING OFFICER. The bill will be received and referred to the appropriate committee.

Mr. GRAHAM. I ask unanimous consent to have printed in the RECORD those documents which I referred to during my remarks.

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

HEALTH CARE
FINANCING ADMINISTRATION,
Baltimore, MD, November 3, 1997.

DEAR STATE MEDICAID DIRECTOR: A number of States have settled suits against one or more tobacco companies to recoup costs incurred in treating tobacco-related illnesses. This letter describes the proper accounting and reporting for Federal Medicaid purposes of amounts received from such settlements that are subject to Section 1903(d) of the Social Security Act.

As described in the statute, States must allocate from the amount of any Medicaid-related expenditure recovery "the pro-rata share to which the United States (Federal government) is equitably entitled." As with any recovery related to a Medicaid expenditure, payments received should be reported on the Quarterly Statement of Expenditures for the Medicaid Assistance Program (HCFA-64) for the quarter in which they are received. Specifically, these receipts should be reported on the Form HCFA-64 Summary Sheet, Line 9E. This line is reserved for special collections. The Federal share should be calculated using the current Federal Medicaid Assistance Percentage. Please note that settlement payments represent a credit applicable to the Medicaid program whether or not the monies are received directly by the State Medicaid agency. States that have previously reported receipts from tobacco litigation settlements must continue to report settlement payments as they are received.

State administrative costs incurred in pursuit of Medicaid cost recoveries from tobacco firms qualify for the normal 50 percent Federal financial participation (FFP). They should be reported on the Form HCFA-64.10, Line 14 (Other Financial Participation).

Only Medicaid-related expenditure recoveries are subject to the Federal share requirement. To the extent that some non-Medicaid expenditures and/or recoveries were also included in the underlying lawsuits, HCFA will accept a justifiable allocation reflecting the Medicaid portion of the recovery, as long as the State provides necessary documentation to support a proposed allocation.

Under current law, tobacco settlement recoveries must be treated like any other Medicaid recoveries. We recognize that Congress will consider the treatment of tobacco settlements in the context of any comprehensive tobacco legislation next year. Given the States' role in initiating tobacco lawsuits and in financing Medicaid programs, States will, of course, have an important voice in the development of such legislation, including the allocation of any resulting revenues. The Administration will work closely with States during this legislative process as these issues are decided.

If you would like to discuss the appropriate reporting of recoveries with HCFA, please call David McNally of my staff at (410) 786-3292 to arrange for a meeting or conversation. We look forward to providing any

assistance needed in meeting a State's Medicaid obligation.

Sincerely,

SALLY K. RICHARDSON,
Director, Center for Medicaid and State Operations.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, November 7, 1997.

THE PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: When Congress reconvenes in January, one of its most important priorities will be the development of national tobacco settlement legislation. The nation's Governors look forward to working with you and with members of Congress to ensure that a final, comprehensive solution is found to the dozens of state lawsuits pending against the tobacco industry. The very fact that a solution is in reach is because of the hard work and leadership of Governors and the state attorneys general on behalf of the states.

An important component of the legislative debate will be the issue of control of tobacco settlement funds. The Governors attach the highest priority to clarifying that settlement funds negotiated by the states to settle state lawsuits must go to the states. Any efforts by the federal government to seek to recoup federal costs must be separate and distinct. Enclosed is a copy of the settlement funds policy we, the Executive Committee of the National Governors' Association, adopted last month.

This issue of control of the settlement funds will be difficult to resolve, and clearly a discussion of the distribution of hundreds of billions of dollars demands congressional involvement. Unfortunately, it appears that the Health Care Financing Administration (HCFA) is not prepared to wait for Congress to act.

On November 3rd, HCFA contacted state Medicaid directors to begin the process of collecting what it perceives to be the federal portion of settlement funds attributable to Medicaid. Although in its letter HCFA mentions the importance of the congressional process, it effectively preempts that process by beginning to collect funds from those states that have already settled their individual lawsuits.

The Governors believe that no action should be taken by HCFA to withhold state Medicaid reimbursement prior to congressional development of settlement legislation. Further, the Governors will strongly support clarification in that legislative package that tobacco settlement funds are not subject to federal recoupment. Recoupment is more appropriate for addressing billing errors than for inserting a federal claim into the multibillion-dollar, state-driven tobacco settlement. Accordingly, the Governors are supporting legislation developed by Senator Bob Graham clarifying that funds made available to the states through individual state tobacco settlements or a national settlement are not subject to federal recoupment.

We appreciate your consideration of our concerns. If we can provide you with any additional background information, please do not hesitate to let us know.

Sincerely,

George V. Voinovich, Governor of Ohio; David M. Beasley, Governor of South Carolina; Howard Dean, M.D., Governor of Vermont; Bob Miller, Governor of Nevada; Tommy G. Thompson, Governor of Wisconsin; Thomas R. Carper, Governor of Delaware; Lawton Chiles, Governor of Florida; Michael O. Leavitt, Governor of Utah; Roy Romer, Governor of Colorado.

By Ms. MOSELEY-BRAUN (for herself and Mr. KENNEDY):

S. 1472. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for public elementary and secondary school construction, and for other purposes; to the Committee on Finance.

THE SCHOOL REPAIR AND CONSTRUCTION ACT OF 1997

Ms. MOSELEY-BRAUN. Mr. President, today I am pleased to introduce the School Repair and Construction Act of 1997. This bill would help States and school districts rebuild our crumbling schools by providing tax credits to developers and builders who build new schools or renovate crumbling schools at below-market rates.

Under this proposal, the Treasury would allocate pools of tax credits to States. States would allocate the credits to school districts. School districts would be able to give these tax credits to developers and builders to cover a portion of the cost of their school repair, renovation, modernization, and construction projects. By allocating tax credits in this manner, the bill would reduce the cost to school districts of school improvement projects by up to 30 percent.

The School Repair and Construction Act of 1997 creates a mechanism for paying for this proposal that is contingent upon our future economic prosperity. If actual revenue into the Federal Treasury exceeds the revenue projections, a portion of those excess revenues would be deposited in a School Infrastructure Improvement Trust Fund. The money in this Trust Fund—up to $1 billion per year—would be available for disbursement to States in the form of the allocable tax credits.

Earlier this year, the Congress enacted broad tax legislation designed to generate wealth and spur economic growth and prosperity. If we are right and that promise comes true, our children ought to benefit from our prosperity. The legislation I am introducing today will guarantee that these revenues are used to rebuild and modernize our schools so they can serve all our children into the 21st century.

According to the U.S. General Accounting Office, 14 million children attend schools in such poor condition they need major renovations or should be replaced outright; 12 million children attend schools with leaky roofs; and 7 million children attend schools with life-threatening safety-code violations. These conditions exist in every type of American community. Thirty-eight percent of urban schools, 30 percent of rural schools, and 29 percent of suburban schools are falling down around our children. According to the GAO, it will cost $112 billion just to bring schools up to good, overall condition.

The $112 billion price tag does not include the cost of upgrading schools for technology, the cost of upgrading electrical systems and installing outlets in classrooms that were built decades ago. The FCC recently issued a landmark ruling that will give millions of children access to modern computer and communications technology. Too many children, however, will be unable to take advantage of this opportunity, because their schools lack the basic infrastructure necessary to allow their teachers to plug computers into the classroom walls. According to the GAO, 15 million children attend schools that lack enough electrical power to fully use computers and communications technology. Almost 50 percent of schools lack the necessary electrical wiring to deploy computers to classrooms.

In addition, public high school enrollment is expected to increase 15 percent by the year 2007. Just to maintain current class sizes, we will need to build 6,000 new schools by the year 2007.

I have visited schools in Illinois where study halls are literally held in hallways because of a lack of space. I have seen stairway landings converted into computer labs. There is a school where the lunchroom has been converted into two classrooms, students eat in the gym, and instead of gym class, many children have what the school calls adaptive physical education, while they stand next to their desks.

These overcrowded and dilapidated conditions are no accident. They are predictable results of the way we fund education. As long as we continue to rely on the local property tax to fund school infrastructure improvements, the conditions of schools will not improve.

The local property tax is simply an inadequate way of paying for school infrastructure improvements. According to the GAO, poor- and middle-class school districts try the hardest to raise revenue, but the system works against them. In 35 States, poor districts have higher tax rates than wealthy districts—but raise less revenue because there is less property wealth to tax.

These districts cannot rely on State support. The GAO found that in fiscal year 1994, State governments only contributed $3.5 billion to the school infrastructure crisis—barely 3 percent of the total need.

This local funding model does not work for school infrastructure, just as it would not work for highways or other infrastructure. Imagine what would happen if we based our system of roads on this same funding model. Imagine if every community were responsible for the construction and maintenance of the roads within its borders. In all likelihood, there would be smooth, good roads in the wealthy towns, a patchwork of mediocre roads

in middle-income ones, and very few roads at all in poor communities. Transportation would be hostage to the vagaries of wealth and geography. Commerce and travel would be difficult, and navigation of such a system would not serve the interests of the whole country. That hypothetical, unfortunately, precisely describes our school funding system.

The time has come for us to heed the call of superintendents, parents, teachers, architects, mayors, governors, contractors, and children from around the country and create a partnership to fix our Nation's crumbling schools.

Winston Churchill once said, "We shape our buildings; thereafter, they shape us." No where is that more true than in schools. The poor condition of America's schools has a direct affect on the ability of our students to learn the kinds of skills they will need to compete in the 21st century, global economy. America can't compete if our students can't learn, and our students can't learn if their schools are crumbling down around them.

This School Repair and Construction Act of 1997 is a sensible way of helping States and school districts meet their school repair, renovation, modernization and construction needs. I urge all of my colleagues to join me in sponsoring this important legislation.

Mr. President, I ask unanimous consent that the text of the School Repair and Construction Act of 1997 and a summary of the legislation be printed in the RECORD.

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

S. 1472

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 "School Repair and Construction Act of 1997".

SEC. 2. PURPOSE.

It is the purpose of this Act to help school districts to improve their crumbling and overcrowded school facilities through the use of Federal tax credits.

SEC. 3. TAX CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to general business credits) is amended by adding at the end the following new section:

"SEC. 45D. CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

"(a) IN GENERAL.—For purposes of section 38, the amount of the school construction credit determined under this section for an eligible taxpayer for any taxable year with respect to an eligible school construction project shall be an amount equal to the lesser of—

"(1) the applicable percentage of the qualified school construction costs, or

"(2) the excess (if any) of—

"(A) the taxpayer's allocable school construction amount with respect to such project under subsection (d), over

"(B) any portion of such allocable amount used under this section for preceding taxable years.

"(b) ELIGIBLE TAXPAYER; ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—For purposes of this section—

"(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means any person which—

"(A) has entered into a contract with a local educational agency for the performance of construction or related activities in connection with an eligible school construction project, and

"(B) has received an allocable school construction amount with respect to such contract under subsection (d).

"(2) ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—

"(A) IN GENERAL.—The term 'eligible school construction project' means any project related to a public elementary school or secondary school that is conducted for 1 or more of the following purposes:

"(i) Construction of school facilities in order to ensure the health and safety of all students, which may include—

"(I) the removal of environmental hazards,

"(II) improvements in air quality, plumbing, lighting, heating and air conditioning, electrical systems, or basic school infrastructure, and

"(III) building improvements that increase school safety.

"(ii) Construction activities needed to meet the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(iii) Construction activities that increase the energy efficiency of school facilities.

"(iv) Construction that facilitates the use of modern educational technologies.

"(v) Construction of new school facilities that are needed to accommodate growth in school enrollments.

"(vi) Such other construction as the Secretary of Education determines appropriate.

"(B) SPECIAL RULES.—For purposes of this paragraph—

"(i) the term 'construction' includes reconstruction, renovation, or other substantial rehabilitation, and

"(ii) an eligible school construction project shall not include the costs of acquiring land (or any costs related to such acquisition).

"(c) QUALIFIED SCHOOL CONSTRUCTION COSTS; APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified school construction costs' means the aggregate amounts paid to an eligible taxpayer during the taxable year under the contract described in subsection (b)(1).

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, in the case of an eligible school construction project related to a local educational agency, the higher of the following percentages:

"(A) If the local educational agency has a percentage or number of children described in clause (i)(I) or (ii)(I) of section 1125(c)(2)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6335(c)(2)(A)), the applicable percentage is 10 percent.

"(B) If the local educational agency has a percentage or number of children described in clause (i)(II) or (ii)(II) of such section, the applicable percentage is 15 percent.

"(C) If the local educational agency has a percentage or number of children described in clause (i)(III) or (ii)(III) of such section, the applicable percentage is 20 percent.

"(D) If the local educational agency has a percentage or number of children described in clause (i)(IV) or (ii)(IV) of such section, the applicable percentage is 25 percent.

"(E) If the local educational agency has a percentage or number of children described in clause (i)(V) or (ii)(V) of such section, the applicable percentage is 30 percent.

"(d) ALLOCABLE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Subject to paragraph (3), a local educational agency may allocate to any person a school construction amount with respect to any eligible school construction project.

"(2) TIME FOR MAKING ALLOCATION.—An allocation shall be taken into account under paragraph (1) only if the allocation is made at the time the contract described in subsection (b)(1) is entered into (or such later time as the Secretary may by regulation allow).

"(3) COORDINATION WITH STATE PROGRAM.—A local educational agency may not allocate school construction amounts for any calendar year—

"(A) which in the aggregate exceed the amount of the State school construction ceiling allocated to such agency for such calendar year under subsection (e), or

"(B) if such allocation is inconsistent with any specific allocation required by the State or this section.

"(e) STATE CEILINGS AND ALLOCATION.—

"(1) IN GENERAL.—A State educational agency shall allocate to local educational agencies within the State for any calendar year a portion of the State school construction ceiling for such year. Such allocations shall be consistent with the State application which has been approved under subsection (f) and with any requirement of this section.

"(2) STATE SCHOOL CONSTRUCTION CEILING.—

"(A) IN GENERAL.—The State school construction ceiling for any State for any calendar year shall be an amount equal to the State's allocable share of the national school construction amount.

"(B) STATE'S ALLOCABLE SHARE.—The State's allocable share of the national school construction amount for a fiscal year shall bear the same relation to the national school construction amount for the fiscal year as the amount the State received under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received by all States under such section for such preceding fiscal year.

"(C) NATIONAL SCHOOL CONSTRUCTION AMOUNT.—The national school construction amount for any calendar year is the lesser of—

"(i) $1,000,000,000, or

"(ii) the amount made available for such year under the School Infrastructure Improvement Trust Fund established under section 9512,

reduced by any amount described in paragraph (3).

"(3) SPECIAL ALLOCATIONS FOR INDIAN TRIBES AND TERRITORIES.—

"(A) ALLOCATION TO INDIAN TRIBES.—The national school construction amount under paragraph (2)(C) shall be reduced by 1.5 percent for each calendar year and the Secretary of Interior shall allocate such amount among Indian tribes according to their respective need for assistance under this section.

"(B) ALLOCATION TO TERRITORIES.—The national school construction amount under paragraph (2)(C) shall be reduced by 0.5 percent for each calendar year and the Secretary of Education shall allocate such

amount among the territories according to their respective need for assistance under this section.

"(4) REALLOCATION.—If the Secretary of Education determines that a State is not making satisfactory progress in carrying out the State's plan for the use of funds allocated to the State under this section, the Secretary may reallocate all or part of the State school construction ceiling to 1 or more other States that are making satisfactory progress.

"(e) STATE APPLICATION.—

"(1) IN GENERAL.—A State educational agency shall not be eligible to allocate any amount to a local educational agency for any calendar year unless the agency submits to the Secretary of Education (and the Secretary approves) an application containing such information as the Secretary may require, including—

"(A) an estimate of the overall condition of school facilities in the State, including the projected cost of upgrading schools to adequate condition;

"(B) an estimate of the capacity of the schools in the State to house projected student enrollments, including the projected cost of expanding school capacity to meet rising student enrollment;

"(C) the extent to which the schools in the State have the basic infrastructure elements necessary to incorporate modern technology into their classrooms, including the projected cost of upgrading school infrastructure to enable the use of modern technology in classrooms;

"(D) the extent to which the schools in the State offer the physical infrastructure needed to provide a high-quality education to all students; and

"(E) an identification of the State agency that will allocate credit amounts to local educational agencies within the State.

"(2) SPECIFIC ITEMS IN ALLOCATION.—The State shall include in the State's application the process by which the State will allocate the credits to local educational agencies within the State. The State shall consider in its allocation process the extent to which—

"(A) the school district served by the local educational agency has—

"(i) a high number or percentage of the total number of children ages 5 to 17, inclusive, in the State who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); or

"(ii) a high percentage of the total number of low-income residents in the State;

"(B) the local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the eligible school construction project without assistance;

"(C) the local area makes an unusually high local tax effort, or has a history of failed attempts to pass bond referenda;

"(D) the local area contains a significant percentage of federally owned land that is not subject to local taxation;

"(E) the threat the condition of the physical facility poses to the safety and well-being of students;

"(F) there is a demonstrated need for the construction, reconstruction, renovation, or rehabilitation based on the condition of the facility;

"(G) the extent to which the facility is overcrowded; and

"(H) the extent to which assistance provided will be used to support eligible school construction projects that would not otherwise be possible to undertake.

"(3) IDENTIFICATION OF AREAS.—The State shall include in the State's application the process by which the State will identify the areas of greatest needs (whether those areas are in large urban centers, pockets of rural poverty, fast-growing suburbs, or elsewhere) and how the State intends to meet the needs of those areas.

"(4) ALLOCATIONS ON BASIS OF APPLICATION.—The Secretary of Education shall evaluate applications submitted under this subsection and shall approve any such application which meets the requirements of this section.

"(g) REQUIRED ALLOCATIONS.—Notwithstanding any process for allocation under a State application under subsection (f), in the case of a State which contains 1 or more of the 100 school districts within the United States which contains the largest number of poor children (as determined by the Secretary of Education), the State shall allocate each calendar year to the local educational agency serving such districts that portion of the State school construction ceiling which bears the same ratio to such ceiling as the number of children in such district for the preceding calendar year who are counted for purposes of section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)) bears to the total number of children in such State who are so counted.

"(h) DEFINITIONS.—For purposes of this section—

"(1) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms 'elementary school', 'local educational agency', 'secondary school', and 'State educational agency' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(2) TERRITORIES.—The term 'territories' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico."

(b) INCLUSION IN GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the school construction credit determined under section 45D(a)."

(2) TRANSITION RULE.—Section 39(d) of such Code is amended by adding at the end the following new paragraph:

"(8) NO CARRYBACK OF SECTION 45D CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the school construction credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D."

(c) ESTABLISHMENT OF SCHOOL INFRASTRUCTURE IMPROVEMENT TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 9512. SCHOOL INFRASTRUCTURE IMPROVEMENT TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'School Infrastructure Improvement Trust Fund', consisting of such amounts as may be credited or paid to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—

"(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for any calendar year an amount equal to the lesser of—

"(A) the revenue surplus determined under paragraph (2) for the preceding calendar year, or

"(B) $1,000,000,000.

"(2) REVENUE SURPLUS.—The revenue surplus determined under this paragraph for any calendar year is an amount equal to the excess (if any) of—

"(A) the Secretary's estimate of revenues received in the Treasury of the United States for the calendar year, over

"(B) the amount the Director of the Congressional Budget Office estimated would be so received in the report provided to the Committees on the Budget of the House and the Senate pursuant to section 202(f)(1) of the Congressional Budget Act of 1974.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be transferred to the general fund of the Treasury at such times as the Secretary determines appropriate to offset any decrease in Federal revenues by reason of credits allowed under section 38 which are attributable to the school construction credit determined under section 45D."

(2) CONFORMING AMENDMENT.—The table of section for subchapter A of chapter 98 of such Code is amended by adding at the end the following new item:

"Sec. 9512. School Infrastructure Improvement Trust Fund.

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 45D. Credit for public elementary and secondary school construction."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SUMMARY: SCHOOL REPAIR AND CONSTRUCTION ACT OF 1997

A proposal to lower the cost of school repair, renovation, modernization, and construction projects by providing tax credits to developers and builders to cover a portion of the costs of school improvement projects. The credits are allocated to States, who have flexibility to award the credits to their elementary and secondary school districts with the greatest needs.

AWARD OF TAX CREDITS TO STATES

A total of $1 billion worth of tax credits allocated every year to States, using a formula based on the number of school-aged children in the State who are eligible for federal education assistance. Two percent of funds reserved for Indian schools and territories.

ALLOCATION OF TAX CREDITS WITHIN STATES

States shall develop a system for allocating the credits to their school districts. States are required to take into account criteria relating to the needs of school districts and the ability of the school districts to finance the improvements without assistance, and are required to identify their highest-priority areas first and develop plans for meeting those needs.

AWARD OF TAX CREDITS TO DEVELOPERS

The developer or builder performing the school improvement project receives the tax

credits upon completion of the project. The credits could then be counted against the developer's income under the rules of general business tax credits.

The amount of the tax credit available to the developer is based on the local area's ability to pay and the total cost of the project. It cannot exceed 30 percent of the total cost of construction, renovation, repair, or modernization, not including land acquisition or other associated costs.

ELIGIBLE PROJECTS

The credits can be used by States and districts to meet their highest priority projects, including school repairs or renovations of substantial size, retrofitting schools for modern technologies, and building new schools to alleviate overcrowding.

TRUST FUND

Funds for this tax credit are made available only if actual revenues into the Federal Treasury exceed CBO revenue projections. In that case, up to $1 billion of excess revenues shall be deposited annually into a School Infrastructure Improvement Trust Fund, and disbursed to States in the form of allocable tax credits.

DETAILED DESCRIPTION: SCHOOL REPAIR AND CONSTRUCTION ACT OF 1997

A proposal to lower the cost of school repair, renovation, modernization, and construction projects by providing tax credits to developers and builders to cover a portion of the costs of school improvement projects. The credits are allocated to States, who have flexibility to award the credits to their elementary and secondary school districts with the greatest needs.

AWARD OF CREDITS TO STATES

Each State educational agency (or other designated agency) shall receive a portion of a total of $1 billion/year worth of tax credits.

Allocation—Each State's share is based on the State's prior year's relative share of funding under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.)

State Minimum—No State shall receive less under this program than its percentage allocation under section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334(d)) for the previous fiscal year.

Reallocation—If a State fails to submit an approvable application for its credits, the Secretary of Treasury shall redistribute that State's share to other States in the same proportions as the original allocations were made.

Indians & Outlying Territories—Of the total amount of tax credits available, one and one-half percent is set aside for Indian schools to be allocated at the discretion of the Secretary of Interior, and one-half percent is set aside for outlying territories, to be allocated at the discretion of the Secretary of Education.

STATE APPLICATIONS

In order to be eligible for tax credits, the State educational agency (or other designated entity) shall submit an application containing information including:

(1) an estimate of the overall condition of school facilities in the State, including the projected cost of upgrading schools to adequate condition;

(2) an estimate of the capacity of the schools in the State to house projected enrollments, including the projected cost of expanding school capacity to meet rising enrollment;

(3) the extend to which the schools in the State have the basic infrastructure elements necessary to incorporate modern technology into their classrooms, including the projected cost of upgrading school infrastructure to enable the use of modern technology in classrooms;

(4) the extend to which the schools in the State offer the physical infrastructure needed to provide a high-quality education to all students; and

(5) an identification of the State agency that will receive the credits.

The State shall also include in its application a plan for the within-state allocation of credits, which shall be based on criteria including the following:

(1) whether a district has high numbers or percentages of the total number of children ages 5 to 17, inclusive, residing in the geographic area served by an eligible local educational agency who are counted under title 1 of the Elementary and Secondary Education Act of 1965, or a high percentage of low-income residents;

(2) whether the eligible local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the project without assistance;

(3) whether the local area makes an unusually high local tax effort, or has a history of failed attempts to pass bond referenda;

(4) whether the local area contains a significant percentage of Federally-owned land that is not subject to local taxation;

(5) the threat the condition of the physical plant poses to the safety and well-being of students;

(6) the demonstrated need for the construction, reconstruction, or renovation based on the condition of the facility;

(7) the extent to which the assistance will alleviate overcrowding; and

(8) the extent to which the assistance provided will support projects that would not otherwise have been possible to undertake, or will increase the size of school infrastructure improvement projects.

The State shall identify its areas of greatest need and develop a plan for meeting the needs of those areas first.

The Secretary of Education shall evaluate State applications and approve those that will maximize school infrastructure improvements in school districts with the greatest needs and the least ability to raise revenue to meet those needs. Once a State's application is approved, the State educational agency (or other designated agency) receives its share of the tax credits. States shall be required to reapply for the credits every five years.

ALLOCATION OF CREDITS WITHIN STATES

For a period of five years, any State containing one of the 100 school districts with the largest numbers of poor children shall make available to those districts amounts of tax credits proportional to those districts' relative shares of funding under section 1124A of the Elementary and Secondary Education Act of 1965.

Other credits shall be allocated within the State in accordance with the criteria described in the State's application to the Secretary of Education. School districts shall apply to the designated State agency for the authority to allocate tax credits to developers working on school improvement projects within their districts.

AWARD OF CREDITS TO DEVELOPERS

School districts will be able to offer developers or builders tax credits from the State based on the cost of their proposed projects.

The developer or builder performing the eligible project would receive the tax credits upon completion of the project. The credits could be counted against the developer's income under the rules of general business tax credits.

The amount of the tax credit available to the developer would be based on the local area's ability to pay and the total cost of the project, up to 30 percent of the total cost of the project, using the following formula.

A project located within a local educational agency described in—

(1) clause (i)(I) or clause (ii)(I) of section 1125(c)(2)(A) of the Elementary and Secondary Education Act, shall be eligible for a credit of 10 percent;

(2) clause (i)(II) or clause (ii)(II) of section 1125(c)(2)(A), shall be eligible for a credit of 15 percent;

(3) clause (i)(III) or clause (ii)(III) of section 1125(c)(2)(A), shall be eligible for a credit of 20 percent;

(4) clause (i)(IV) or clause (ii)(IV) of section 1125(c)(2)(A), shall be eligible for a credit of 25 percent; and

(5) clause (i)(V) or clause (ii)(V) of section 1125(c)(2)(A), shall be eligible for a credit of 30 percent;

of the total cost of the project.

The "total cost" of the project includes the cost of construction, renovation, repair, or modernization, but not land acquisition or other associated costs.

ELIGIBLE PROJECTS

The tax credits shall be used by States to help support projects of substantial size and scope such as:

(1) the repair or upgrade of classrooms or structures related to academic learning, including the repair of leaking roofs, crumbling walls, inadequate plumbing, poor ventilation equipment, and inadequate heating or lighting equipment;

(2) an activity to increase physical safety at the educational facility involved;

(3) an activity to enhance the educational facility involved to provide access for students, teachers, and other individuals with disabilities;

(4) an activity to improve the energy efficiency of the educational facility involved;

(5) an activity to address environmental hazards at the educational facility involved, such as poor ventilation, indoor air quality, or lighting;

(6) the provision of basic infrastructure that facilitates educational technology, such as communications outlets, electrical systems, power outlets, or a communication closet;

(7) the construction of new schools to meet the needs imposed by enrollment growth; and

(8) any other activity the Secretary determines achieves the purpose of this title;

as long as such projects are located in a school as defined under section 12012(2) of the Elementary and Secondary Education Act of 1965.

TRUST FUND

Funds for this tax credit are made available only if actual revenues into the Federal Treasury exceed CBO revenue projections. In that case, up to $1 billion of excess revenues shall be deposited annually into a School Infrastructure Improvement Trust Fund, and disbursed to States in the form of allocable tax credits.

Mr. KENNEDY. Mr. President, I give my strong support to the bill being introduced today by Senator MOSELEY-

BRAUN'S TO PROVIDE UP TO $1 BILLION A YEAR FOR IMPROVING AMERICA'S SCHOOL FACILITIES.

Good education begins with good places to learn. We can't expect children to learn, when school roofs are crumbling, pipes are leaking, and boilers are failing. Adequate school facilities are essential to prepare children for the 21st century. It's preposterous to pretend that we can prepare students for the 21st century in dilapidated 19th century classrooms.

We can no longer ignore this national crisis. We need to develop effective public-private partnerships to address these needs. Senator MOSELEY-BRAUN's bill provides that opportunity.

Schools across the country are facing enormous problems with crumbling facilities. 14 million children in one-third of the Nation's schools are now learning in substandard school buildings. Over half of all schools report at least one major building in disrepair, with cracked foundations, leaking roofs, or other major problems.

This bill can be a major start toward repairing the Nation's crumbling schools, by encouraging business and government to work together. It offers tax credits to developers and builders to cover costs of school improvements. Each State will receive funds based on the number of school-age children in the State who are eligible for Federal education assistance. The States will have the flexibility to award the tax credits to developers in school districts with the greatest need. The credits will be taken against the developer's income, like other business tax credits.

I urge my colleagues to support Senator MOSELEY-BRAUN's bill to help local communities rebuild America's crumbling schools. I look forward to continuing to work with her to make sure that Congress does its part to help address this national need.

By Mr. D'AMATO (for himself, Ms. MOSELEY-BRAUN, and Mr. COCHRAN):

S. 1476. A bill to authorize the President to enter into a trade agreement concerning Northern Ireland and certain border counties of the Republic of Ireland, and for other purposes; to the Committee on Finance.

NORTHERN IRELAND/BORDER COUNTIES FREE TRADE, DEVELOPMENT AND SECURITY ACT

Mr. D'AMATO. Mr. President, today I introduce the Northern Ireland/Border Counties Free Trade, Development and Security Act. This legislation is a carbon copy of S. 1976, legislation that I introduced in the 104th Congress. Joining me as original cosponsors are my friends and colleagues, the senior Senator from Illinois, Senator MOSELEY-BRAUN and the Senator from Mississippi, Mr. COCHRAN.

The Northern Ireland Free Trade, Development and Security Act reintroduced today will—by University of Ulster estimates, create 12,000 jobs within the twelve counties of Northern Ireland and the Border Counties. It will produce an additional $1.5 billion into that economy annually. The new jobs it will create will be targeted to those areas that need the most, areas where the current unemployment rate ranges between 30 percent and 50 percent, areas that have never felt the effects of real economic expansion or growth. Further, this legislation will provide those jobs and hope without any discernable impact upon our nations trade or budget deficit, as was the case with Gaza/West Bank legislation. This bill will operate in harmony with stated goals of the European Union, United Kingdom and the Irish Republic. It will additionally comport with the requirements of the World Trade Organization.

Mr. President, the paradox of Northern Ireland is that she has given so much to other cultures and lands but has been incapable of fully reaping the rewards of her own peoples skills and strengths at home. The unfortunate reality is that as in the Republic of Ireland, a large majority of the North's highly educated and skilled younger generation has been forced to emigrate due to high unemployment levels which are as high as 70 percent in some areas. These disadvantaged areas are the ones which this legislation has been especially designed to target. Joint cooperation and joint economic development between the United States, Northern Ireland and the European Union will integrate the most distressed parts of Northern Ireland and the Border Counties into a dynamic economy that—while firmly rooted in the European Union—continues to expand and cement new trading relationships beneficial to all trading partners.

Northern Ireland's peace process must move forward and the aspirations and goodwill of the vast majority of its citizens must be accompanied by hard work and endeavor. A more prosperous economy with more evenly spread and meaningful job opportunities can only serve to bridge the social and economic disparities that exist in this region. In conclusion this opportunity cannot be overlooked, after 25 years since the outbreak of the "troubles," the people of Northern Ireland have suffered enough violence and depravity. Now it is time to embark on a rebuilding process that will give no chance to the terrorist but every chance to peace and reconciliation.

Mr. President, it is time to roll up our sleeves and do something real and substantive for all the people of Northern Ireland. This legislation goes far beyond symbolic gestures and grand statements of concern. It will provide a real and solid foundation that the people of Northern Ireland can use to build that new and brighter future. This legislation represents the Senate's down payment on that future.

Mr. President, I ask unanimous consent that a public statement of support from Minister James McDaid, the Minister of Tourism and Trade for the Republic of Ireland, found in today's Irish News—be printed in the RECORD.

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

[From the Irish News]

MINISTER GIVES BACKING TO U.S. FREE TRADE BILL FOR NORTH

(By Jim Fitzpatrick)

The Republic's tourism minister Dr. Jim McDaid has given his backing to the American free trade bill for Northern Ireland and the border counties.

The Irish News reported last month that the proposed bill, which a University of Ulster study concluded would create at least 12,000 jobs, was facing opposition from officials in London, Dublin and Brussels.

But Fianna Fail minister Dr. McDaid gave his unqualified backing to the proposal yesterday, saying that he felt special measures were necessary to redress the economic imbalance on the island.

The bill would allow companies based in the northern twelve counties of Ireland to sell products directly into the U.S. without any tariffs.

Its backers argue that it would be a massive boost for foreign investment and create thousands of jobs because it would allow companies free access the two largest markets in the world—north America and Europe.

But the legislation, which is in the early stages of development in the U.S. Congress, has faced opposition from some sections of the Irish political establishment.

Dr. McDaid's predecessor, Fine Gael minister Enda Kenny who also held responsibility for trade, said the bill would require customs posts to be set up within the Republic along the border of the zone.

But Dr. McDaid rejected that suggestion: "I don't agree that this bill will mean the 're-partition of Ireland'. The bill addresses an area which has already been recognized by the European Union and the International Fund for Ireland as needing special assistance."

He said there was a need for "positive discrimination" and a radical economic plan to tackle the economic problems of the northern part of Ireland so that the "whole of the island" can share in its economic success.

He said the bill would undoubtedly be a boost to the peace process, and help redress the economic imbalance crested by the years of violence in the north.

Dr. McDaid said he felt that the free trade status would probably have to be granted on a time-limited basis—perhaps for 25 years or more.

It's understood that support for the free trade bill has been growing within Irish political circles, although the Irish government has not taken a formal position on the matter.

A number of senators and MEPs from border counties have submitted letters of support to the U.S. Congress.

The U.S. Congressman pushing the bill wrote to the Irish News recently calling on people in the region to publicly support the initiative.

Massachusetts Congressman Marty Meehan praised the Clinton administration's current efforts to bring new investment to the north, and called on the people of the north to work with the influential American politicians who are backing the free trade initiative.

"I encourage the people of Northern Ireland and the border counties to work with me through trade associations, councils and elected representatives to help pass this bill as well as other related measures. Together, we can help lay the groundwork for a sound economic future in Northern Ireland," he wrote.

Mr. Meehan stressed in his letter that, contrary to some of the criticisms levelled against the bill, his legislation would comply fully with European Union law.

By Mr. D'AMATO:

S. 1477. A bill to amend the Harmonized Tariff Schedule of the United States to provide that certain goods may be reimported into the United States without additional duty; to the Committee on Finance.

U.S. CATALOGUE MERCHANTS EXPORT PROMOTION ACT OF 1997

Mr. D'AMATO. Mr President, I rise today to introduce legislation necessary to correct a problem faced by an important segment of the American exporting community, catalogue merchants. Catalogue merchants are multi-billion dollar export businesses in New York State and across the nation. Due to an anomaly in our customs law, some products sold by these merchants face double duties when the goods are returned to them by customers abroad. The bill I am introducing today seeks to correct this problem by making sure that duties are only assessed once—as the law intended—the first time a product comes into this country from abroad.

If I may Mr. President, let me explain the problem by first telling you how the system is supposed to work. When a catalogue merchant imports a product directly from abroad, as the importer of record, he pays a duty on the product. Let's say the product is a pair of trousers from Taiwan. A merchant in the United States takes direct delivery of a pair of pants from a company in Taipei, and pays duties to the U.S. Treasury on the trousers when they enter the United States. The merchant then sells the pants to a customer in Montreal, Canada. But, the pants are the wrong size, and the customer returns the same pair of trousers directly to the catalogue merchant in the U.S. In that case, properly, is no duty paid on the returned trousers. After all, a duty was properly paid on the trousers when they were first imported into the U.S. That is how the law works when the catalogue merchant is also the official importer of record.

Now, take the same situation, but add a broker here in the United States, (the way most catalogue merchants import merchandise into the United States) who is officially the importer of record. The trousers come into the United States from Taipei, but this time, instead of going directly to the merchant, they are imported by a U.S. distributer. The distributer, who is the importer of record, properly pays the duty on the pants, and then transfers the trousers to the catalogue merchant in the U.S. The catalogue merchant then sells the trousers to the customer in Montreal, who subsequently returns the trousers to the U.S. merchant (via a return clearinghouse in Canada, that is set up to ship returned products back to the U.S. in bulk). That is where the problem comes in. When the trousers come back to the United States (as part of a bulk shipment), duty has to be paid on the trousers a second time. Officially, that is because the catalogue merchant is not the original importer of record, and thus a second duty is assessed on the trousers.

Clearly, this makes no sense. A second duty should not have to be paid on the same pair of trousers, just because the U.S. catalogue seller is not the original U.S. importer of record. What this amendment says, essentially, is that it doesn't matter who the original importer of record is; as long as the proper duty is paid when an article first enters the U.S., a duty is not assessed the second time the article enters the U.S., when it re-enters the U.S. as a sales return.

The President may know that I have sought this change in law for more than a year, and it is my hope that when the Senate next turns to miscellaneous trade matters, this very minor provision can be included. The U.S. Customs Service has told importers that legislation is the only remedy to correct this anomaly. Furthermore, the measure should be deemed "revenue neutral" because importers can already avoid the double duty by simply shipping the returns back by (inefficiently) shipping the returns back to the U.S. individually rather than (efficiently) consolidating the shipments.

This measure is a common-sense, good government measure which promotes U.S. exports, and correspondingly keeps companies from moving good jobs in distribution and logistics offshore.

By Ms. SNOWE (for herself and Mr. BREAUX):

S. 1480. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration to conduct research, monitoring, education and management activities for the eradication and control of harmful algal blooms, including blooms of Pfiesteria piscicida and other aquatic toxins; to the Committee on Commerce, Science, and Transportation.

THE HARMFUL ALGAL BLOOM RESEARCH AND CONTROL ACT OF 1997

Ms. SNOWE. Mr. President, today I am introducing legislation designed to address a serious national problem affecting our coasts.

The recent outbreak of Pfiesteria in the Chesapeake Bay has garnered a lot of media attention, and deservedly so. But Pfiesteria is actually just one example of a larger phenomenon—Harmful algal blooms.

These damaging outbreaks of often toxic algae affect every U.S. coastal State and territory. In my State of Maine, we have outbreaks of paralytic shellfish poisoning every year which require the closure of clam flats along the coast, and the loss of millions of dollars in potential income.

On Georges Bank off the New England coast, harmful algal blooms cause $3 million to $5 million worth of damage every year. In Washington in 1991, an outbreak resulted in losses of razor clams exceeding $15 million. And off Alaska, which has our Nation's most pristine coastline, an estimated $50 million worth of shellfish remain unexploited each year due to these outbreaks.

What is frightening is that these blooms have been increasing over the last 30 years with no sign of abatement—and science cannot explain why. Nor do we have any other way of addressing the problem besides closing areas to swimming and fishing.

My bill is designed to address this problem with focused and appropriate Federal action. NOAA, the lead Federal agency on harmful algal blooms, currently has the major Federal research program to address the problem—the Ecology and Oceanography of Harmful Algal Blooms project, or ECO-HAB. It is part of NOAA's Coastal Ocean Program, but it does not have a specific authorization. My bill would give this program a specific authorization for $10.5 million annually during fiscal years 1998, 1999, and 2000, providing it with a more certain future as the next century approaches.

The bill would also authorize the following activities for the next 3 years—$5 million per year for NOAA to upgrade its research lab capabilities to more effectively study the problem; $3 million annually for education and extension services through the Sea Grant colleges; $5.5 million annually to augment Federal and State monitoring programs to help detect harmful algal blooms early; and $8 million annually in grants to the States through the Coastal Zone Management Act [CZMA] programs to help States control blooms in their area.

My bill represents a coordinated strategy for attacking this serious problem. I hope all of my colleagues will join me in supporting this legislation. 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. 1480

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 "Harmful Algal Bloom Research and Control Act of 1997".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the recent outbreak of the harmful microbe *Pfiesteria piscicida* in the coastal waters of the United States is one of the larger set of potentially harmful algal blooms that appear to be increasing in abundance and intensity in the Nation's coastal waters;

(2) in recent years, harmful algal blooms have resulted in massive fish kills, the deaths of numerous endangered West Indian manatees, beach closures, and threats to public health and safety;

(3) other recent occurrences of harmful algal blooms include red tides in the Gulf of Mexico and the southeast, brown tides in New York and Texas, and shellfish poisonings in the Gulf of Maine, the Pacific northwest and the Gulf of Alaska;

(4) harmful algal blooms have been responsible for an estimated $1,000,000,000 in economic losses during the past decade;

(5) harmful algal blooms are composed of naturally occurring species that reproduce explosively when the natural system is out of balance;

(6) under certain circumstances, harmful algal blooms can lead directly to other damaging marine conditions such as hypoxia, as has been found in the Gulf of Mexico;

(7) factors thought to cause or contribute to harmful algal blooms include excessive nutrients and toxins from polluted runoff;

(8) there is a strong need for a national strategy to identify better means of controlling polluted runoff;

(9) the National Oceanic and Atmospheric Administration (NOAA) in the Department of Commerce, through its ongoing research, grant, and coastal resource management programs, possesses a full range of capabilities necessary to support a near and long-term comprehensive effort to control and eradicate harmful algal blooms; and

(10) funding for NOAA's research and related programs will aid in improving the Nation's understanding and capabilities for addressing the human and environmental costs associated with harmful algal blooms.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR ALGAL BLOOM ERADICATION AND CONTROL.

There are authorized to be appropriated to the Secretary of Commerce for activities related to the research, eradication, and control of harmful algal blooms $32,000,000 in each of fiscal years 1998, 1999, and 2000, to remain available until expended. Of such amounts for each fiscal year—

(1) $5,000,000 may be used to enable the National Oceanic and Atmospheric Administration to carry out research activities, including procurement and maintenance of research facilities, of the Office of Oceanic and Atmospheric Research, National Marine Fisheries Service, and the National Ocean Service;

(2) $10,500,000 may be used to carry out the Ecology and Oceanography of Harmful Algal Blooms (ECO-HAB) project and related research under the Coastal Ocean Program established under section 201(c) of Public Law 102-567.

(3) $3,000,000 may be used for outreach, education and advisory services administrated by the National Sea Grant Office established under subsection 204(a) of the National Sea Grant College Program Act (33 U.S.C. 1123(a));

(4) $5,500,000 may be used to carry out federal and state annual monitoring and analysis activities administered by the Office of Resource Conservation and Assessment of the National Oceanic and Atmospheric Administration; and

(5) $8,000,000 may be used for grants under sections 306, 306A and 310 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455, 1455a and 1456c).

By Mr. DEWINE:

S. 1481. A bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the Medicare Program, to provide for continued entitlement for such drugs for certain individuals after Medicare benefits end, and to extend certain Medicare secondary payer requirements; to the Committee on Finance.

THE IMMUNOSUPPRESSIVE DRUGS COVERAGE ACT OF 1997

Mr. DEWINE. Mr. President, I rise today to introduce a bill that will help organ transplant recipients maintain access to drugs that they need to prevent their immune systems from rejecting transplanted organs. This bill is the product of many conversations I have had with folks in the organ and tissue transplant community, including many people from Ohio.

I have worked with people interested in organ and tissue donation for quite some time to increase awareness and education about transplant issues. Organs are very scarce, and we work hard to raise awareness so we can increase donation. Despite our efforts, more than 55,000 Americans are on the organ transplant waiting list—where they wait, and wait, and some of them die.

Others are lucky—they get one of the precious organs, allowing them to live a healthier, longer life. Because of the wonderful gift these lucky few have been given, it is particularly tragic that some can't afford the drugs—called immunosuppressive drugs—that help ensure that their immune systems won't reject their new organs.

That is why I am introducing the "Immunosuppressive Drugs Coverage Act of 1997." This bill makes sure that the 75,000 people that have received an organ transplant covered by Medicare always have access to immunosuppressive drugs. Medicare currently limits coverage for immunosuppressive drugs to 30 months after a transplant. In 1998, the limit will rise to 36 months under current law.

But then what? After Medicare coverage ends, the transplant recipient must find some other way to pay for these essential drugs. Many transplant recipients may not be able to get other insurance coverage or be able to afford to pay out-of-pocket for the drugs, which average around $5,000 annually and can cost in excess of $10,000. Without a way to pay for them, these patients may be forced to stop taking the immunosuppressive drugs. Others will ration use of the drugs and take them irregularly. In either case, the risk of rejection for the transplant organ is much greater.

If a transplanted organ is rejected, the recipient may die or may need intensive, life-sustaining medical care, which Medicare often does pay for. And yet, it won't pay for the drugs to prevent these life-threatening episodes.

For kidney recipients, who make up the vast majority of Medicare transplant recipients, immune rejection means an immediate return to renal dialysis at a cost to Medicare of around $30,000 a year. For some kidney patients and all other Medicare transplant recipients, rejection means a return to the transplant waiting list, and a need for expensive life-sustaining care. If they are lucky, they will get a second transplant, which can cost hundreds of thousands of dollars.

My bill simply makes sure that everyone who receives an organ transplant through Medicare will have continued access to immunosuppressive drugs. This bill will help people who cannot pay for life-preserving immunosuppressive drugs and, at the same time, will help Medicare avoid the huge additional costs currently incurred when organs are rejected.

When working with people to write this bill, I wanted to make sure the cost was as low as possible, while still getting the job done. That is why my bill contains safeguards that say that if any patient has private insurance coverage, it is the private insurance plan—and not Medicare—that pays for the immunosuppressive drugs.

Someday, immunosuppressive drugs may not be necessary. We are beginning to see some promising research in this area. But today's transplant recipients need help now. They need this bill.

The miracle of transplantation gives people the "Gift of Life." It does not make sense to put this gift at risk because the recipient is unable to pay for immunosuppressive drugs. I urge every Senator to consider cosponsoring and supporting this bill.

By Mr. COATS:

S. 1482. A bill to amend section 223 of the Communications Act of 1934 to establish a prohibition on commercial distribution on the World Wide Web of material that is harmful to minors, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PORN LEGISLATION

Mr. COATS. Mr. President, during Senate consideration of the Telecommunications Act of 1996 I, along with Senator James Exon, introduced an amendment to the Act which came to be known as the Communications Decency Act or CDA. This amendment

held forth a basic principle, that children should be sheltered from obscene and indecent pornography. There was spirited debate on the amendment. However, ultimately the Senate adopted the CDA by an overwhelming margin of 84 to 16.

On the very day that the President signed the Telecommunications Act into law, the American Civil Liberties Union and the American Library Association, along with America On-Line and other representatives of the computer industry, filed a law suit against the CDA in District Court. In short, the case ultimately came before the Supreme Court, where it was struck down.

Mr. President, however much I disagree with the ruling of the Supreme Court, it is reality and as such, I have studied the opinion of the Court and come before my colleagues today to introduce legislation that reflects the parameters laid out by the Court's opinion.

Mr. President, during Congressional consideration of the CDA, opponents of the measure took what I like to call an ostrich approach. They stuck their head in the sand and their rear end in the air.

With companies like America on Line and Microsoft in the forefront, there came an indignant claim from the computer industry that there was no problem with pornography on the Internet. They claimed that there was very little pornography, and that what exists is difficult to find. However incredulous, this is what they claimed.

Well, Mr. President, this ostrich appears to have extricated its head from the sand. For after the Supreme Court's ruling, the computer industry, along with so-called civil liberties groups, gathered for a White House summit to address the issue of pornography on the net, and what could be done about it. There are now panels and working groups, media discussions and industry alternatives all designed to address this problem of the proliferation of pornography on the Internet and the threat it poses to our children.

Mr. President, let me congratulate the computer industry, and welcome them to the real world.

And what is this real world? Mr. President, I turn now to the February 10 edition of U.S. News and World Report. The cover story is entitled, "The Business of Porn." The article outlines in rather disturbing clarity the issue of pornography in America. "Last year" it states, "America spent more than $8 billion on hard-core videos, peep shows, live sex acts, adult cable programming, sexual devices, computer porn, and sex magazines—an amount much larger than Hollywood's domestic box office receipts and larger than all the revenues generated by rock and country music recordings. Americans now spend more money at strip clubs than at Broadway, off-broadway, regional, and nonprofit theaters; at the opera, the ballet, and jazz and classical music performances combined."

This is truly alarming, and reflects poorly on the moral direction of the country. And, Mr. President, as the Internet continues to grow as a medium of communication and commerce in our society, its role in expanding the commerce of pornography increases exponentially.

The Article goes on to say that: "In much the same way that hard-core films on videocassette were largely responsible for the rapid introduction of the VCR, porn on and CD-ROM and on the Internet has hastened acceptance of these new technologies. Interactive adult CD-ROMS, such as Virtual Valarie and the Penthouse Photo Shoot, create interest in multimedia equipment among male computer buyers." It goes on: "Porn companies have established elaborate Web sites to lure customers * * * Playboy's web site, which offers free glimpses of its Playmates, now averages about 5 million hits a day."

The Article quotes Larry Flint, who says he "imagines a future in which the TV and the personal computer have merged. Americans will lie in bed, cruising the Internet with their remote controls and ordering hard-core films at the punch of a button. The Internet promises to combine the video store's diversity of choices with the secrecy of purchases through the mail."

Mr. President, there has been a virtual explosion of commerce in pornography on the Internet. Adult book stores, live peep shows, adult movies, you name it and it is there. It is available, Mr. President, not just to adults, but to children.

And what does the computer industry, the ACLU, and the American Library Association tout as a solution to this problem? They tout self-ratings systems and blocking software. Opponents of the CDA, companies like America On-Line, the ACLU, the American Library Association, and Larry Flint, have argued that there is no role for government in protecting children, that the Internet can regulate itself. The primary solution these people promote is a system called PICs (Platform for Internet Content Selection), a type of self-ratings system. This would allow the pornographer to rate his own page, and browsers, the tool used to search the Internet, would then respond to these ratings. Aside from the ludicrous proposition of allowing the pornographer to self-rate, Mr. President, there is no incentive for compliance.

I now turn to an editorial by writers in PC Week Magazine, a very prominent voice in the computer industry. The editorial is titled: "Web Site Ratings—Shame on Most of Us." The column discusses the lack of voluntary compliance by content providers with the PICs system: "We and many others in the computer industry and press have decried the Communications Decency Act and other government attempts to regulate the content of the Web. Instead, we've all argued, the government should let the Web rate and regulate its own content. Page ratings and browsers that respond to those ratings, not legislation, are the answers we've offered."

The article goes on, "Too bad we left the field before the game was over." the article says, "We who work around the Web have done little to rate our content." it states that, in a search of the Web, they found "few rated sites." And that rated sites were the "exception to the rule" In other words, PICs does not work. It does not work, because there is no incentive for pornographers to comply.

And what about blocking software? Mr. President, let me begin by pointing out the amazing level of deceit that proponents of this solution are willing to go to. The American Library Association, a principal opponent of the CDA, lined up with plaintiffs in challenging the Constitutionality of the Act. It was a central argument of the Library Association and their cohorts, that blocking software presented a non-governmental solution to the problem.

However, Mr. President, if one logs onto the American Library Association Web site one finds quite a surprise. Contained on the site is a resolution, adopted by the ALA Council on July 2, 1997, that resolves: "That the American Library Association affirms that the use of filtering software by libraries to block access * * * violates the Library Bill of Rights." Mr. President, I ask unanimous consent that this Resolution be inserted into the RECORD.

So, here we find the true agenda of the American Library Association. They represent to the Court that everything is O.K., that all we need is blocking software. Then, they turn around and implement a policy that says no-way.

And what are the implications? I quote now from a February 12, 1997 article in the Boston Herald. "John Hunt, a parent from Dorchester, said he was furious to learn his 11-year-old daughter was able to view pornography yesterday while working on a school essay at the BPL's Copley Square branch." The article goes on: "She said all the boys were around the computer and they were laughing and called the girls over to look at the pictures of naked people," Hunt said. "I want to find out from these library officials what is going on."

The article goes on to tell the story of another parent, Susan Sullivan who said she was stunned when her 10-year-old son spent the afternoon researching

a book report on the computer in the BPL's Adams Street branch, but ended up looking through explicit photographs instead.

Ms. Sullivan says: "I'm very, very upset because I have no idea what he saw on the screen. He said he was using the Internet to do a book report on Indians and he was able to access dirty pictures, pictures of naked people."

When the library spokesman was asked about parent's concerns, he dismissed them saying, "We do have children's librarians but we do not have Internet police."

So here is the genuine concern of the American Library Association for children and their genuine support for blocking software as a solution.

Again, Mr. President, I ask unanimous consent that this article be made part of the record.

However, Mr. President, this is a side issue. As I pointed out earlier, in the case of the computer industry, deceit and denial are tactics regularly employed by opponents of real child protections. The fact is, Mr. President, that the software does not work. In fact, it is particularly dangerous because it creates a false sense of security for parents, teachers, and children.

I have here a transcript from Morning Edition on National Public Radio. It is from the September 12, 1997 program. The host, Brooke Gladstone is interviewing a 12-year-old named Jack. Ms. Gladstone asks Jack what he does when he bumps up against Net Nanny, a popular blocking software program.

Jack replies: "You go to hacking sites such as the Undernet, which is a site which you pay money to go a member{sic}. And then, after that, you have full access to all these hacking, cracking and phreaking and credit card fraud and all these other tools."

Ms. Gladstone then asks Jack if kids use these services.

Jack replies: "A lot. I mean, you have kids at school who bring in 3.5 inch disks saying hey, buddy, come here. I'll sell you this disk for $10 dollars. There's all the hacking stuff you'll ever need.

Ms. Gladstone then goes on to discuss with Jack how he made money downloading pornography and selling it to his school-mates, making $30.

Jack describes the various methods by which he defeats the blocking software his parents have installed.

Later in the interview, Ms. Gladstone interviews Jay Friedland, founder of Surf Watch, another well-hyped blocking software program. Mr. Friedland readily concedes that his software can be broken, even describing the ways to hack the program.

In describing the security his product offers parents, he says: "It's a little bit like suntan lotion. It allows you to stay out in the sun longer, but you can still get sunburnt." Mr. President, this does not sound very reassuring to me.

I ask unanimous consent that the full text of this article be inserted into the RECORD at the appropriate place.

The bottom line here is money. There are millions upon millions of dollars being made on the Internet in the pornography business. There is even more money being made marketing software to terrified parents, software that does not work.

Let's look at the situation. You have the computer industry working to defeat laws designed to prohibit distribution of pornography to children. The solution that they promote is blocking software, manufactured by themselves. They are making tens- of-millions of dollars off of it. However, what we find out is that the software doesn't work. And all the while, you have companies like America On-Line out there, head in the sand, telling parents, schools, Congress, and the American public that there isn't a problem with pornography on the Internet. And the Internet Access Providers are pulling in the big bucks, providing access to the red light district.

"The Erotic Allure of Home Schooling," that is the name of an article, published in the September 8 edition of Fortune Magazine. Mr. President, I have long been an advocate of home schooling. But, I must confess that its erotic allure has never been one of my motivations.

It begins: "Here's one of the Web's dirtiest words: Mars. Try searching for sites about the red planet lately, and you could land on a porn purveyor's online playground. What next?" the article asks, "Smut linked to the keywords'home schooling'? Don't look now—it's already happened."

The article goes on: "Perverse as these connections seem, they're right out of Economics 101, specifically the part about competition. Pornography sites are among the Web's few big moneymakers. There are thousands of them, from the R-rated to the boundlessly perverse. They compete furiously, and their main battleground for market share is search engines like Yahoo, Lycos, Excite, and Infoseek. Web surfers looking for porn typically tap into such search services and use keywords like "sex" and "XXX." But so many on- line sex shops now display those words that their presence won't make a site stand out in a list resulting from a user's query. To get noticed, pornographers increasingly try to trick search engines into giving them top billing—sometimes called 'spoofing'."

The article points out that: "Search engine companies like Infoseek constantly develop new filters to defeat spoofing. But calls still come in from irate mothers and grade-school teachers who click on innocent-looking search results and find themselves on a page too exotic to mention." The article concludes: "The Clinton Administration is encouraging efforts based on'voluntary restraint.' That's a lot to ask in the Web's open bazaar, where market share is the name of the game."

I ask unanimous consent that the full text of this article be inserted in the record at the appropriate place.

Mr. President, it is not just a lot to ask. It is foolish and futile to ask. The bottom line is that, unless commercial distributors of pornography are met with the force of law, they will not act responsibly.

I am here today to introduce legislation that will provide just such force of law.

As I stated in my opening comments, the legislation I introduce today is designed to accommodate the concerns of the Supreme Court. This legislation is specifically targeted at the commercial distribution of materials harmful to minors on the World Wide Web.

It states simply that "Whoever in interstate or foreign commerce in or through the World Wide Web is engaged in the business of the commercial distribution of material that is harmful to minors shall restrict access to such material by persons under 17 years of age."

It is an affirmative defense to prosecution that the defendant restricted access to such material by requiring use of a verified credit card, debit account, adult access code, or adult personal identification number. The bill also calls upon the FCC to prescribe alternative procedures. The FCC is expressly restricted from regulation of the Internet, or Internet Speech.

Further, the FCC and the Justice Department are directed to post on their Web sites information as is necessary to inform the public of the meaning of the term "harmful to minors."

As I know that it will be of some concern to my colleagues that any legislation dealing with this topic takes into account the Supreme Court's ruling in the CDA, I would like to take some time now to examine the key precedents which the Court considered in its opinion on the CDA and how they relate to this bill.

Central to the construction of this legislation is the Ginsberg case. This Court ruling upheld the constitutionality of a New York statute that prohibited the selling to minors under 17 years of age material that was considered obscene as to them even if not obscene as to adults. In Ginsberg, the Court rejected the defendant's argument that "the scope of the constitutional freedom of expression secured to a citizen to read or see material concerned with sex cannot be made to depend on whether the citizen is an adult or a minor."

In Ginsberg, the Court relied on both the state's interest in protecting the well-being of children, but also on the principle that "the parent's claim to authority in their own household to direct the rearing of their own children

is basic in the structure of our society."

In the Court's opinion on the CDA, they laid out four differences between the CDA and the question contained in the Ginsberg case. As you will see, the legislation I introduce today carefully addresses each of these concerns.

First, the Court points out that in the New York statute examined in Ginsberg, "the prohibition against sales to minors does not bar parents who so desire from purchasing the magazines for their children." The Court interpreted the CDA to prohibit such activity. Though I must confess to my colleagues that I find it a disturbing proposition that a parent should so desire to purchase pornographic material for their children's consumption, it seems that this is a right that this Court feels compelled to protect.

The legislation I introduce today places no restriction on a parent's right to purchase such material, and to provide it to their children, or anyone else. In fact, it places no restriction on any potential consumer of pornography. Rather, it simply requires the commercial purveyor of pornography to cast their message in such a way as not to be readily available to children.

The Court's second issue relating to the Ginsberg case is that the New York statute applied only to commercial transactions. As I have previously stated, my legislation deals only with commercial transactions.

Third, the Court points out that in Ginsberg, the New York statute combined its definition of harmful to minors with the requirement that it be "utterly without redeeming social importance for minors." The Court goes on to express that the CDA omits any requirement that the material covered in the statute lack serious literary, artistic, political, or scientific value.

This concern is addressed directly in my legislation, with a specific plank of the definition of harmful to minors requiring that the material in question "lacks serious literary, artistic, political, or scientific value." Mr. President, I do not believe that it is possible to address a concern more directly.

Finally, the Court states that the New York statute considered in Ginsberg defined a minor as a person under the age of 17, whereas the CDA applied to children under the age of 18, citing concern that by extending protection to those under 18, the CDA reached "those nearest the majority."

Mr. President, here again I am confused my the rationale of the Court. For it is common practice in federal statute to recognize minors as those under the age of 18 years. However, the legislation I introduce today contains the same under 17 requirement established under Ginsberg.

The second case of importance as relates to the Supreme Court ruling on the CDA is the Pacifica case. Though the specifics of this case are well-known to most by now, a summary might be helpful. In the Pacifica case, the Supreme Court upheld a declaratory order of the FCC relating to the broadcast of a recording of a monologue entitled "Filthy Words."

The Commission found that the use of certain words referring to excretory or sexual activities or organs "in an afternoon broadcast when children are in the audience was patently offensive" and thus inappropriate for broadcast.

In considering the precedent established in Pacifica, and their relationship to the CDA, the Court outlined 3 concerns.

First, the Court stated that, unlike in Pacifica where the content in question was regulated as to the time it was broadcast, the CDA made no such distinction. Further, the Court makes a rather curious distinction in stating that the regulation in question in the Pacifica case had been promulgated by an agency with "decades" of experience in regulating the medium.

On the first point, the regulation of Internet content in the context of time is irrelevant, as a child may access or be inadvertently exposed to pornography any time he or she logs onto the Internet. That could be in the evening, when doing a research paper, or during class—working on an assignment, or at the public library. The simple fact that a child runs the risk of exposure any time presents a more substantial potential for harm than the time regulation approach approved in Pacifica, and calls for a higher level of control, not lower as the Court concluded.

On the question of regulation by an agency with decades of experience, given the fact that the Internet is a very new medium of communication, it is a rather ludicrous distinction to make. No agency, short of the Defense Department, could demonstrate the historical relationship to the Internet that the FCC can with broadcast radio. Surely the Supreme Court would not advocate Defense Department regulation of the Internet.

Further, given the concern among supporters of the Internet regarding government regulation of the medium, it would seem preferable to have a clearly defined statute, enforced by the Justice Department, as opposed to a regulatory regime, which would be enforced by an unaccountable federal agency and subject to bureaucratic creep. During debate and negotiations on passage of the CDA, opponents raised strong concerns that the FCC not be given any regulatory authority over the Internet. It was this opposition to a regulatory solution that resulted in a very restricted agency roll.

Though the FCC is expressly prohibited from regulating content under the legislation I introduce today, a specific provision is made for the FCC to prescribe a method of restricting access that would function as an affirmative defense to prosecution.

As such, this legislation provides the benefit and flexibility of an evolving agency regulation, whereby as technology evolved and new and more effective means of access restriction emerge, the Commission could modify the regulation, without the creation of a regulatory regime with expansive FCC authority over the Internet and speech.

The Court goes on to point out that in Pacifica, the Commission's declaratory order was not punitive, whereas there were penalties under the CDA. Here, it is important to distinguish the difference in scope between this legislation and the CDA.

A principal concern of the Court with the CDA, was that the CDA dealt with both commercial and non-commercial communications. As such, the cost and technology burdens necessary to restrict access that would be imposed by the CDA on non-commercial speakers, according to the opinion of the Court, would be prohibitive. The result would be, in the Opinion of the Court, that speech would be chilled.

The legislation I introduce today is strictly limited to the commercial distribution of pornography on the World Wide Web. The commercial distributors of pornography on the Web already use the very mechanisms (credit cards and PIN numbers) that are required under this bill. The difference between the status quo and this bill is that pornography distributors would be required to cease to give away the freebies that any child with a mouse could gain access to.

As such, Court concerns regarding the potential chilling effect to non-commercial speech that they perceived under the CDA is moot. The scope of this legislation does not extend to the non-commercial speaker. Secondly, this legislation imposes no new technological or economic burden on the commercial operator. It simply imposes a control on the manner of distribution and provides penalties for violations. Mr. President, there is a long tradition of fines and penalties for violations of laws governing the commercial distribution of pornography. This legislation is simply a continuation of these principles. In fact, the very treatment of fines in penalties under this legislation, mirrors those under dial-a-porn, which have been upheld by the Supreme Court.

Finally, under an examination of Pacifica, the Court points out the differences between the level of First Amendment protection extended to broadcast and the Internet. Mr. President, I must say that however much I differ with the opinion of the Court on this question in general, I would simply point out that the harmful to minors standard has traditionally been

used, and has been constitutionally upheld, as a standard for regulating print media. Print media is extended the highest level of First Amendment protection. As such, this legislation clearly accounts for the Supreme Court's concerns in this area.

The Court also examines the precedents established under Renton. The Renton case dealt with a zoning ordinance that kept adult movie theaters out of residential neighborhoods. It did so based on the "secondary effects" of the theaters—such as crime and deteriorating property values. It was the Court's opinion that the CDA treated the entire universe of cyberspace rather than specific areas or zones. Further, the Court seemed preoccupied that the CDA dealt with the primary, not the secondary effects of pornography.

The legislation I introduce today deals with a narrow zone of the Internet, commercial activity on the World Wide Web. Though there is tremendous economic activity in pornography on the Web. The cyber-geography of this bill is very limited.

Mr. President, on this question of primary and secondary effects, I must differ with the Court and would like to go into this question in some detail.

The underlying principle which the Senate supported by a vote of 84 to 16 in adopting the CDA, and which is embodied in the legislation I introduce today is articulated in New York versus. Ferber: "It is evident beyond the need for elaboration that the State's interest in 'safeguarding the physical and psychological well-being of a minor' is compelling."

There is no question that exposure to pornography harms children. A child's sexual development occurs gradually through childhood. Exposure to pornography, particularly the type of hard-core pornography available on the Internet, distorts the natural sexual development of children.

Essentially, pornography shapes children's sexual perspective by providing them information on sexual activity. However, the type of information provided by pornography does not provide children with a normal sexual perspective. As pointed out in Enough is Enough's brief to Court on the CDA, pornography portrays unhealthy or antisocial kinds of sexual activity, such as sadomasochism, abuse, and humiliation of females, involvement of children, incest, group sex, voyeurism, sexual degradation, bestiality, torture, objectification, that serve to teach children the rudiments of sex without adult supervision and moral guidance.

Ann Burgess, Professor of Nursing at the University of Pennsylvania, states that children generally do not have a natural sexual capacity until between 10 and 12 years old. Pornography unnaturally accelerates that development. By short-circuiting the normal development process and supplying misinformation about their own sexuality, pornography leaves children confused, changed and damaged.

As if the psychological threat of pornography does not present a sufficient compelling interest, there is a significant physical threat. As I have stated, pornography develops in children a distorted sexual perspective. It encourages irresponsible, dehumanized sexual behavior, conduct that presents a genuine physical threat to children. In the United States, about one in four sexually active teenagers acquire a sexually transmitted disease (STD) every year, resulting in 3 million STD cases. Infectious syphilis rates have more than doubled among teenagers since the mid-1980's. One million American teenage girls become pregnant each year. A report entitled "Exposure to Pornography, Character and Sexual Deviance" concluded that as more and more children become exposed not only to soft-core pornography, but also to explicit deviant sexual material, society's youth will learn an extremely dangerous message: sex without responsibility is acceptable.

However, there is a darker and more ominous threat. For research has established a direct link between exposure and consumption of pornography and sexual assault, rape and molesting of children. As stated in Aggressive Erotica and Violence Against Women, "Virtually all lab studies established a causal link between violent pornography and the commission of violence. This relationship is not seriously debated in the research community." What is more, pedophiles will often use pornographic material to desensitize children to sexual activity, effectively breaking down their resistance in order to sexually exploit them.

A study by Victor Cline found that child molesters often use pornography to seduce their prey, to lower the inhibitions of the victim, and as an instruction manual. Further, a W.L. Marshal study found that: "87 percent of female child molesters and 77 percent of male child molesters studied admitted to regular use of hard-core pornography."

Given these facts, Mr. President, any distinction the Court makes regarding the effects of pornography on children seems to miss the very point of the state's compelling interest. For the sanctity and security of childhood is what these efforts are all about.

As I have stated before in addressing this subject, childhood must be defended by parents and society as a safe harbor of innocence. It is a privileged time to develop values in an environment that is not hostile to them. But this foul material on the Internet invades that place and destroys that innocence. It takes the worst excesses of the red-light district and places it directly into a child's bedroom, on the computer their parents bought them to help them with their homework.

I urge my colleagues to support this legislation, and yield the floor.

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

[From U.S. News & World Report, Feb. 10, 1997]

THE BUSINESS OF PORNOGRAPHY

(By Eric Schlosser)

MOST OF THE OUTSIZE PROFITS BEING GENERATED BY PORNOGRAPHY TODAY ARE BEING EARNED BY BUSINESSES NOT TRADITIONALLY ASSOCIATED WITH THE SEX INDUSTRY

John Stagliano is a wealthy entrepreneur, a self-made man whose rise to the top could happen only in America. Raised in a conservative, Midwestern household, Stagliano read the books of Ayn Rand and was greatly influenced by their heroes, rugged individualists willing to defy conventional opinion. He attended the University of California—Los Angeles hoping to become a professor of economics. Instead, he studied modern dance, struggled to find work as an actor, became one of the original Chippendale dancers, performed occasionally in hard-core films, and used the prize money won during a cable television strip contest to finance and direct a porn film of his own.

Today, Stagliano is the nation's leading director of hard-core videos, a porn auteur whose distinctive cinema verite style of filmmaking has been widely imitated. His videos cost about $8,000 to produce—and often earn him 30 times that amount. Stagliano shoots without a crew, edits the films himself, and performs in them. He also is a major contributor to the Cato Institute, a well-known think tank in Washington, D.C., where he regularly discusses policy issues with its economists.

Stagliano's company, Evil Angel Video, has become a veritable United Artists of porn, distributing the work of other top directors. Evil Angel sold about half a million videos last year. At its modern Southern California warehouse, hundreds of VCRs, stacked floor to ceiling, run 24 hours a day, five days a week, churning out copies of hard-core films.

A great deal has been written about pornography, both pro and con. A new movie about the life of Larry Flynt, the publisher of Hustler magazine, has once again raised the issue of pornography and the First Amendment. But much less attention has been given to the underlying economics of porn, to porn as a commodity, the end product of a modern industry that arose in this country after the Second World War and has grown enormously ever since.

Critics of the sex industry have long attacked it for being "un-American"—and yet there is something quintessentially American about it: the heady mix of sex and money, the fortunes quickly made and lost, the new identities assumed and then discarded, the public condemnations of a private obsession. Largely fueled by loneliness and frustration, the sex industry has been transformed from a minor subculture on the fringes of society into a major component of American popular culture.

Meese formation. More than a decade ago, Attorney General Edwin Meese III's Commission on Pornography issued its controversial report, asserting that sexually explicit materials were harmful and calling for strict enforcement of the federal obscenity laws. The report prompted President Ronald Reagan to

launch one of the most far-reaching assaults on porn in the nation's history, a campaign that continued under President George Bush. Hundreds of producers, distributors, and retailers in the sex industry were indicted and convicted. Many were driven from the business and imprisoned.

The Reagan-Bush war on pornography coincided, however, with a dramatic increase in America's consumption of sexually explicit materials. According to Adult Video News, an industry trade publication, the number of hard-core-video rentals rose from 75 million in 1985 to 490 million in 1992. The total climbed to 665 million, an all-time high, in 1996. Last year Americans spent more than $8 billion on hard-core videos, peep shows, live sex acts, adult cable programming, sexual vices, computer porn, and sex magazines—an amount much larger than Hollywood's domestic box office receipts and larger than all the revenues generated by rock and country music recordings. Americans now spend more money at strip clubs than at Broadway, off-Broadway, regional, and nonprofit theaters; at the opera, the ballet, and jazz and classical music performances—combined.

Porn has become so commonplace in recent years that one can easily forget how strictly it was prohibited not long ago. The sociologist Charles Winick has noted that the sexual content of American culture changed more in two decades than it had in the previous two centuries. Twenty-five years ago, a federal study of pornography estimated that the total retail value of all the hard-core porn in the United States was no more than $10 million, and perhaps less than $5 million.

During the 1980s, the advent of adult movies on videocassette and on cable television, as well as the huge growth in telephone sex services, shifted the consumption of porn from seedy movie theaters and bookstores into the home. As a result, most of the profits being generated by porn today are being earned by businesses not traditionally associated with the sex industry—by mom and pop video stores; by long-distance carriers like AT&T; by cable companies like Time Warner and Tele-Communications Inc.; and by hotel chains like Marriott, Hyatt, and Holiday Inn that now reportedly earn million of dollars each year supplying adult films to their guests. America's porn has become one more of its cultural exports, dominating overseas markets. Despite having some of the toughest restrictions on sexually explicit materials of any Western industrialized nation, the United States is now by far the world's leading producer of porn, churning out hard-core videos at the astonishing rate of about 150 new titles a week.

Parallel universe. In the San Fernando Valley of Southern California, near Universal City and the Warner Bros. back lot, an X-rated-movie industry has emerged, an adult dream factory, with its own studios, talent agencies, and stars, its own fan clubs and film critics. Perhaps three quarters of the hard-core films made in the United States today come from Los Angeles County. Sound stages, editing facilities, and printing plants are tucked away in middle- and working-class neighborhoods, amid a typical Southern California landscape of palm trees, shopping malls, car washes, and fast-food joints. You could hardly choose a more unexceptional spot for the world capital of porn.

Nevertheless, strange things are happening in the valley, behind closed doors. Every few weeks, in the upscale suburb of Sherman Oaks, there's an open casting call at the industry's top talent agency. Scores of young men and women crowd its small offices, undressing for producers and directors who audition promising newcomers and inspect them for tattoos. At the sleek headquarters of an adult-film company in Chatsworth, the hallways are lined with autographed basketball and hockey jerseys, expensively framed. There is not an obscene image in sight. It could be the headquarters of ESPN. In addition to hard-core videos, the company's state-of-the-art, $30 million duplicating equipment also copies videos for government agencies and local church groups. At a factory in Panorama City, near the foothills of the San Gabriel Mountains, shelves are lined with plaster casts of the buttocks and genitalia of famous porn stars. The casts are used to make sexual devices, lifelike reproductions packaged with celebrity endorsements. A rival L.A. company sells a plastic, inflatable woman that speaks with an English accent. The factory calls to mind the set of a science fiction movie: Wires peek from battery-powered devices; metal cages on the floor are filled with rubber body parts.

The distribution of sexually explicit material has become intensely competitive. Hundreds of companies now produce and distribute hard-core films, selling them to wholesalers and retailers and directly to consumers. Videotape has lowered production costs so much, according to one industry executive, that the only barriers to entry today are "a sense of embarrassment and the lack of a good lawyer." The availability of hard-core films on home video has forced adult theaters out of business in cities nationwide. Los Angeles once had more than 30 adult theaters; today it has perhaps six. The number of adult bookstores has also declined, though not so precipitously. The bookstores are supported mainly by their peep booths, which at some locations now allow a customer to watch five hard-core videos simultaneously on dual TV screens, demanding a new quarter every 20 seconds.

Although the sex industry in Southern California is booming, most of the revenues generated by hard-core videos are going to mainstream video stores. The consolidation of the retail video business, marked by the growth of national chains like Blockbuster, has put enormous pressure on mom and pop video stores. Faced with competition from superstores, independent retailers have turned to renting and selling hard-core porn as a means of attracting customers. This marketing strategy has been made possible by Blockbuster's refusal to carry X-rated material and by the higher profit margins of hard-core videos. A popular Hollywood movie on videotape, such as Pulp Fiction, may cost the retailer $60 or more per tape and rent for $3 a night. A new hard-core release, by comparison, may cost $20 per tape and rent for $4 a night. Some mom and pop video stores now derive a third of their income from porn. According to Paul Fishbein, editor of Adult Video News, there are approximately 25,000 video stores that rent and sell hard-core films—almost 20 times the number of adult bookstores.

Economies of scale. The spread of hard-core videos into mainstream channels of distribution has fueled a tremendous rise in the production of porn. Since 1991, the number of new hard-core titles released each year has increased by 500 percent. The falling cost of video equipment has attracted more and more filmmakers to the business. In 1978, perhaps 100 hard-core feature films were produced, at a typical cost in today's dollars of about $350,000. Last year, nearly 8,000 new hard-core videos were released, some costing just a few thousand dollars to produce. Wholesale prices have been driven down by this flood of product. A market once characterized by a relatively undifferentiated product has segmented into various niches, with material often aimed at narrowly defined audiences.

Hard-core videos now cater to almost every conceivable predilection—and to some that are difficult to imagine. There are gay videos and straight videos; bondage videos and spanking videos; tickling videos, interracial videos, and videos like Count Footula for people whose fetish is feet. There are "shemale" videos featuring transsexuals and "cat fighting" videos in which naked women wrestle one another or join forces to beat up naked men. There are hard-core videos for senior citizens, for sadomasochists, for people fond of verbal abuse. The sexual fantasies being sold in this country are far too numerous to list. America's sex industry today offers a textbook example of how a free market can efficiently gear production to meet consumer demand.

Men are by far the largest consumers of porn. Most of the hard-core material being sold depicts sexuality from a traditional male perspective, with women's bodies as the central focus, little subtlety, and an emphasis on the mechanics of sex. Some American women, however, are consuming a good deal of hard-core material. During the late 1980s, a survey by Redbook magazine, famous for its recipes and household tips, found that almost half of its readers regularly watched pornographic movies in the privacy of their homes. And a recent survey by the Advocate, a leading gay magazine, found that 54 percent of its lesbian readers had watched an X-rated video in the previous 12 months.

Valley girls. The office of Vivid Video are in Van Nuys, Calif., the epicenter of the sex industry. Located in the middle of the San Fernando Valley and founded with the slogan "The Town That Started Right," Van Nuys has long been known as a solid middle-class community, home to the "Valley girls" whose distinctive idiom is often parodied. Great Western Litho, which prints the box covers for hard-core videos, is now one of the town's largest employers, along with Hewlett-Packard and Anheuser-Busch. The Mid-Valley Chamber of Commerce never mentions in its community guide that hard-core videos are one of the area's major exports. And yet from an inconspicuous set of buildings, across the street from a quiet residential block, Vivid Video has become one of the two or three leading adult-film companies in the world by adapting the old Hollywood studio system to the mass production of porn.

Steven Hirsch, the founder and president of Vivid, has long hair, a good tan, a firm handshake, a brand-new black Ferrari parked outside his office. As he talks about pay-per-view buy rates, brand recognition, and foreign licensing rights, he seems no different from the aggressive young Hollywood executives a few miles to the south. He started his company in 1984, at the age of 23. He thought that all porn films looked alike—and that he could make better ones. He signed actresses to exclusive contracts, heavily promoted his stars as the "Vivid Girls," and put them in films aimed at couples, with dialogue and a plot. His formula soon proved a success.

In addition to creating a sex-star system, Hirsch has made Vivid one of the top hard-core film companies—along with VCA Pictures, Leisure Time, and Metro—by exploiting new avenues of distribution. Vivid's films

appear on Playboy's cable channel, and in partnership with Playboy, Vivid has launched a new pay-per-view cable service called AdultVision. It offers porn films 24 hours a day, seven days a week. Adult movies on pay-per-view have become a large source of profits for cable companies; a "cash cow," one executive told Variety. When an adult film is sold on pay-per-view, the cable operator typically gets to keep 70 percent of the revenue.

Last year, Americans spent more than $150 million ordering adult movies on pay-per-view. Most of that money was earned by the nation's major cable companies: Time Warner, Continental Cablevision, Cablevision Systems Corp., and TeleCommunications Inc. The porn services like AdultVision and its main competitor, the Spice Channel, often attract more viewers than channels offering Hollywood movies. Some of the adult services give cable operators 5 percent of the revenues gained by selling various products that are advertised between porn films. There are cable companies that rank in the Fortune 500 that now earn money through the sale of love oils and lingerie.

Even larger revenues are being earned by companies that offer adult films in hotels. Last year guests spent about $175 million to view porn in their rooms at major hotel chains such as Sheraton, Hilton, Hyatt, and Holiday Inn. Few hotels have refused to carry adult material on their pay-per-view systems. Whenever a guest orders an adult movie through pay-per-view, the hotel gets a cut of up to 20 percent.

Hirsch also sells the foreign distribution rights to Vivid's films, sometimes covering the entire cost of a production through an overseas sale. Canal Plus, one of France's biggest cable companies, broadcasts two hard-core Vivid movies every month, which earn some of the channel's highest ratings. European countries tend to have much looser standards about nudity on television and much tougher restrictions on violence. In Germany, films like Rambo and RoboCop cannot be broadcast on television or rented in video stores by anyone under the age of 18—and yet German pay cable service offers extremely hard-core films. Although the French sex industry is growing, American porn dominates overseas markets.

In order to meet domestic and overseas commitments, Vivid shoots eight new hard-core movies a month, half on video, half on 16-mm film, with an average budget of $80,000. "We're like a big machine," Hirsch says. Logistical nightmares are common: Screenplays fail to arrive on time; performers don't show up on the set.

Hirsch says his job is not as exciting as some people think: "You spend half your day on the phone selling the product and the other half of the day collecting for it." He also believes there's nothing wrong with being in the porn business; indeed, he grew up in it. Hirsch's father is a former stockholder who started his own adult-film company and put his teenage kids to work in the warehouse during summer vacations. Hirsch's sister is now the head of production at Vivid.

Nina Hartley is the stage name of a well-known porn star whose career in the sex industry has lasted more than a decade. Hartley grew up in Berkeley, considers herself a radical feminist, and comes from a long line of American rebels. She says that her grandfather (a physics professor) and her father (a radio announcer) were members of the Communist Party. Raised as a feminist to distrust the male gaze, Hartley secretly fantasized about dancing naked. After graduating magna cum laude with a nursing degree from San Francisco State, she decided to become a porn star. Since the early 1980s, she has appeared in more than 300 hard-core films. She is a proud exhibitionist. For the past 14 years, she has lived in a stable, triangular relationship with her husband—a former member of the campus radical group Students for a Democratic Society—and another woman. "Nina Hartley" is a deliberate creation of theirs, a larger-than-life persona designed to show that a woman can be strong and sexually autonomous.

Fear of sex? "For all the lip service we give to sex being holy and wonderful and spiritual," Hartley says, "we let Madison Avenue use it to sell spark plugs and dishwashing detergent—to sell anything but sex." She thinks a great deal of today's porn is not only misogynous but misanthropic, treating men with disrespect. It is a disposable commodity, reflecting the culture's deep fear of sex. "The people who run the porn business are not sex radicals," she notes, with regret; their sex lives at home tend to be extremely conventional. "You'd be surprised how many of the producers and manufacturers are Republicans."

Some women are drawn to the sex industry because they're exhibitionists who love the sex and the stardom. Most are attracted by the money. One well-known porn star put herself through law school by acting in hard-core films; others have saved their earnings, invested well, and then quit. But many are drawn to the industry by drug habits and self-loathing. For these women, hard-core videos become a permanent record of the most degrading moments of their life.

There is a constant demand for new talent, and few actresses last more than a year or two. Hartley warns new performers to avoid overexposure. A woman's pay is largely based on her novelty. Hundreds of women are constantly entering and exiting the industry. As in Hollywood, the demand is greatest for actresses in their late teens and early 20s.

Sexually transmitted diseases are one of the industry's occupational hazards. Performers are now required to undergo monthly HIV testing, and their test results serve as a passport for work. A number of producers insist upon the use of condoms during especially high-risk activity; the majority of producers don't. A leading actor with AIDS could in a matter of days spread the virus to many other performers. Because such an epidemic has not yet struck the porn community, many performers question the prevailing wisdom about AIDS and how it is spread. Behind these doubts lies a great deal of fear, denial, and wishful thinking. Drawing upon her experience as a registered nurse, Hartley has published a set of "Health and Hygiene Tips for Adult Performers."

Attempts to form a union for sex workers have met with little success. Most of the performers, according to Hartley, are "eighties kids" who want to be rich and pay fewer taxes: "Solidarity? Brotherhood? Sisterhood? Ha!" Verbal contracts are routinely made and broken, by producers and performers. Checks sometimes bounce. The borderline legal status of the industry makes performers reluctant to seek redress in court.

The highest-paid performers, the actresses with exclusive contracts, earn between $80,000 and $100,000 a year for doing about 20 sex scenes and making a dozen or so personal appearances. Only a handful of actresses—perhaps 10 to 15—are signed to such contracts. Other leading stars are paid roughly $1,000 per scene. The vast majority of porn actresses are "B girls," who earn about $300 a scene. They typically try to do two scenes a day, four or five times a week. At the moment, there is an oversupply of women in Southern California hoping to enter the porn industry. Overtime is a thing of the past, and some newcomers will work for $150 a scene.

The dirty dozen. The actors in hard-core films serve mainly as props for the female performers. Leading actors earn less money than the top actresses but enjoy much longer careers. Most enter the business in order to have sex with a large variety of women. The men are valued primarily for their ability to perform on cue. Perhaps a dozen men consistently display that skill; some have now appeared in more than 1,000 hard-core films.

Hartley spends about half of her year on the road, dancing in strip clubs four to six nights a week. Like many porn actresses, that is how she earns the bulk of her income. The huge growth in the hard-core-video business during the 1980s coincided with the opening of large strip clubs all over the country. Hard-core videos now serve as a promotion for live performances. According to Rob Abner, a former analyst at E.F. Hutton who now publishes Stripper magazine, a trade journal, the number of major strip clubs in the United States roughly doubled between 1987 and 1992. Today there are about 2,500 of these clubs nationwide, with annual revenues ranging from $500,000 to more than $5 million at a well-run "gentlemen's club." The salaries of featured dancers have risen astronomically. The nation's top five or six porn actresses earn $15,000 to $20,000 a week to dance at strip clubs, doing four 20-minute shows each night. Another five or six porn actresses earn between $8,000 and $15,000 a week. Featured dancers are now paid, for the most part, according to the "credits" they have accumulated—their appearances in hard-core films, on video-box covers, in men's-magazine photo spreads. In the hierarchy of sex workers, strippers always used to look down at porn stars, viewing their work with distaste. Now strippers from all over the United States are flocking to Southern California and competing for roles in hard-core films.

The uncontrolled, and perhaps uncontrollable, nature of today's sex industry is best illustrated by the thriving trade in home-made hard-core videos. During the 1980s the camcorders advertised as a means of recording weddings, graduations, and a child's first steps were soon used to record sex. People began making and exchanging tapes of themselves in bed. An underground market arose for these crude but authentic sex tapes, and companies began to distribute them. Today anywhere from one fifth to one third of the hard-core videos being sold in the United States are classified as "amateur," featuring to some degree the work of nonprofessionals. Most of the companies that distribute amateur porn are located in Southern California. But there are hard-core amateur-video companies distributing tapes from Vandalia, Ohio, and Wentzville, Mo.; from Wichita, Kan., and Ronkonkoma, N.Y.; from Woodridge, Ill., and Chattanooga, Tenn. Americans who like to be watched and Americans who like to watch are now linked in a commerce worth hundreds of millions of dollars.

The oldest, and one of the largest, amateur porn companies is based in San Diego, not far from the Salk Institute. Homegrown Video offers more than 500 different tapes of ordinary people having sex. The company's current owner, Tim Lake, is 31 years old and

could easily pass for a drummer in a Seattle rock band. Lake and his wife, Alyssa, sift through the new tapes that arrive at their office each week from around the world. The people who appear in these videos are of every race, size, and shape. Their bodies are different from those seen in typical hard-core films, in which the performers often look like parodies of the reigning masculine and feminine ideals. People who send tapes to Homegrown hope to break into the porn business, or earn a little extra money, or show off. The company pays them $20 for every minute of video it uses; about half the tapes that Homegrown receives are eventually released in some form. In a sense, the company serves as a clearinghouse for the democracy of porn, supplying hard-core videos by the people, for the people.

Lake, whose real name is Farrell Timlake, was raised in Fairfield County, Conn. He attended prep schools in New Canaan and Kent, studied literature at the University of Washington, became a performance artist, met his wife at a rock club, and followed the Grateful Dead with her for years. The two have been together for more than a decade and have a young daughter. Lake was a porn star in Los Angeles before buying Homegrown, as was his wife. Lake's brother, who attended Exeter and Stanford, is now Homegrown's head of sales and has performed in its films.

In much the same way that hard-core films on videocassette were largely responsible for the rapid introduction of the VCR, porn on CD-ROM and on the Internet has hastened acceptance of these new technologies. Interactive adult CD-ROMs, such as Virtual Valerie and The Penthouse Photo Shoot, created interest in multimedia equipment among male computer buyers. The availability of sexually explicit material through computer bulletin board systems has drawn many users to the Internet. Porn companies have established elaborate Web sites to lure customers. But these new technologies have not yet become a major source of income for the sex industry. Most of the adult-film producers in Southern California—like their Hollywood counterparts—have been disappointed with their multimedia sales. Despite the vast quantities of porn available on the Internet, the revenues being generated are minuscule compared with the video trade. Nevertheless, distributing porn via the Net may yield large profits one day. Playboy's Web site, which offers free glimpses of its Playmates, now averages about 5 million hits a day.

Larry Flynt imagines a future in which the TV and the personal computer have merged. Americans will lie in bed, cruising the Internet with their remote controls—and ordering hard-core films at the punch of a button. The Internet promises to combine the video store's diversity of choices with the secrecy of purchases through the mail. The best example of how such "non-face-to-face transactions" will take place can be found in any recent issue of Hustler. Most of the ads, which cost $15,000 a page, are selling telephone sex.

Tough call. Telephone sex—considered simply one more form of "audiotext" by executives in the trade—became a huge business in the 1980s despite government efforts at regulation. Every night, between the peak hours of 9 p.m. and 1 a.m., perhaps a quarter of a million Americans pick up the phone and dial a number for commercial phone sex. The average call lasts six to eight minutes, and the charges range from 89 cents to $4 a minute. According to the owner of one of America's largest "audiotext providers," three quarters of the callers are lonely hearts seeking conversation with a woman. The sexual content of the call is often of secondary importance. Some calls reach a recorded message, but most are answered by "actresses"—bank tellers, accountants, secretaries, and housewives earning a little extra money at the end of the day. The ease, anonymity, and interactive quality of phone sex explain its commercial success and its relevance to the future of the Internet. Last year Americans spent between $750 million and $1 billion on telephone sex.

AT&T is one of the biggest carriers of phone sex. In 1991, the FCC restricted the type of adult calls that could be made to numbers with a 900 prefix, banning "obscene communications for commercial purposes." But no such restrictions apply to overseas calls, which can easily be made from most telephones. Audiotext providers now make financial arrangements with foreign phone companies and route their phone-sex calls to "actresses" in the Dominican Republic, Aruba, the Marianas, Guyana, and Russia. Half of every dollar spent on one of these international sex calls goes to the domestic phone company; the foreign telephone company gets the other half, splitting its take with the phone-sex provider. Some phone-sex providers have started their own long-distance phone companies in order to cut the U.S. carrier out of the deal. The use of overseas calls for phone sex has been a boon to some foreign telephone companies. This new routing system helps explain why the annual volume of long-distance calls to the small African nation of Sao Tome recently increased from 40,000 minutes to 13 million minutes.

Online sex. The nation's obscenity laws and the Communications Decency Act are the greatest impediments to Flynt's brave new world of porn. Even he is shocked by some of the material he has obtained through the Internet. "Some of the stuff out there," he says, "I mean, I wouldn't even publish it." He supports the V-chip, which will soon give parents the ability to prevent their children from watching violent TV programming. And he thinks children should be strictly denied access to sexually explicit material. But Flynt believes that adults can safely read any book or see any movie without risk of being corrupted and that the obscenity laws are an insult to the intelligence of the American people.

Flynt has slowly, almost imperceptibly, made the sexual content of Hustler more explicit over the past few years. Its photo spreads are now right on the border between soft core and hard core. Readers have noticed the change and have sent letters asking if what they see is real. Flynt may soon cross the line and make Hustler hard core. His attorneys are not pleased with the idea. But Flynt is beginning to think about his legacy. The Supreme Court's 1988 decision in Larry Flynt v. Jerry Falwell extended constitutional protection to political satire. The infidel who once cursed the Supreme Court now seems almost old-fashioned in his yearning to set another legal precedent. "I have all the money I need now," Flynt says, "and I'm not really motivated by it anymore. The most important contribution I could make would be an end to the obscenity laws."

Flynt predicts that if the obscenity laws are rescinded, the amount of hard-core material sold in the United States will skyrocket—but not for long. Once the taboo is lifted, once porn loses the aura of a forbidden vice, people will lose interest in it. Within a decade of overturning the obscenity laws, he claims, the size of the American sex industry would decline to a fraction of what it is today.

Bruce A. Taylor is president and chief counsel of the National Law Center for Children and Families, one of the leading supporters of the Communications Decency Act and of its provision banning information on abortion from the Internet. Taylor thinks that Flynt's prediction is absurd, that eliminating the nation's obscenity laws would be an unmitigated disaster. Taylor opposes hard-core porn because, he says, it degrades women, promotes rape, and thrives on prostitution—hiring people to have sex. He thinks most soft-core porn should be outlawed as well. Taylor warns Americans not to be fooled by Flynt: "Of course people in the business want to see it legalized!"

But Flynt's theory—that legalizing porn will eventually reduce the demand—may not be as outlandish as it seems. That is exactly what happened in Denmark a generation ago. In 1969, Denmark became the first nation in the world to rescind its obscenity laws, an act taken after much deliberation and study. According to Vagn Greve, director of the Institute of Criminology and Criminal Law at the University of Copenhagen, when the Danish obscenity law was overturned, there was a steep rise in the consumption of porn, followed by a long, steady decline. "Ever since then," he says, "the market for pornography has been shrinking." Porn sales remain high in Copenhagen mainly because of purchases by foreigners. Greve's colleague at the institute, the late Berl Kutchinsky, studied the effects of legalized pornography in Denmark for more than 25 years. In a survey of Copenhagen residents a few years after the "porno wave" had peaked, Kutchinsky found that most Danes regarded porn as being "uninteresting" and "repulsive." Less than a quarter of the population said they liked watching hard-core films. Subsequent research confirmed these findings. "The most common immediate reaction to a one-hour pornography stimulation," Kutchinsky concluded, "was boredom."

[From PC Week, Feb. 3, 1997]

WEB SITE RATINGS—SHAME ON MOST OF US

We and many others in the computer industry and press have decried the Communications Decency Act and other government attempts to regulate the content of the Web. Instead, we've all argued, the government should let the Web rate and regulate its own content. Page ratings and browsers that respond to those ratings, not legislation, are the answers we've offered.

The argument has been effective. With the CDA still wrapped up in the courts, the general feeling seems to be that we, the good guys, carried the day on this one.

Too bad we left the field before the game was over. We who work around the Web have done little to rate our content. We stumbled upon this situation while testing the latest release of Ziff-Davis' BrowserComp browser compatibility test (available at www.zdbop.com). We were checking a few random sites to verify that they contained ratings. They did not.

After visiting a broader set of sites, we were shocked by how little use of ratings we found. You can see for yourself by cranking up Internet Explorer 3.0. Follow the menu path View/Options/Security, and you'll see the Content adviser section. Enable ratings and start checking pages. We think your search will produce the same results as ours: few rated sites. A few notable exceptions, such as Playboy and Microsoft, had rated

their pages, but they were more the exception than the rule.

They don't rate.

Shame on the sites, including some of Ziff-Davis' own, that lack ratings. No excuses really justify this lack of support. Rating pages certainly isn't particularly hard. Pretty much everyone agrees that the way to put a rating in a page is to use the HTML PICS (Platform for Internet Content Selection) tags. These tags let you specify for each of a set of rating areas, such as language or violence, a level, or ratings, that applies to that page. (For more information, visit www.w3.org/pub/WWW/PICS.)

Exactly which rating types a site should use is less settled, but the RSACi system from the Recreational Software Advisory Council (www.rsac.org) seems to be the front-runner and is the one IE supports. Some might argue that their sites contain no objectionable content and thus don't need ratings. That argument doesn't wash, however, because to be safe those wishing to limit access to potentially unsuitable pages will choose the option of having the browser block unrated pages. For even the best-behaved pages to be available to such folks, it needs a rating.

A bigger excuse may be the current paucity of browser support for ratings. Netscape's Navigator 3.0 does not include RSACi support. (Such support is coming in a future release from Netscap, but it's sad that this leader in the Web community was not a leader in ratings support.)

If you are as outraged as we are by the lack of page ratings, do something about it. Stop by the PICS and RSACi pages. Try our experiment. Complain to sites that are not rated. Complain if your browser does not support ratings.

Raise a ruckus! If we don't rate ourselves and solve the unsuitable content problem on our own, then we will have no right to complain when Big Brother attempts to do it for us.

[From the Boston Herald, Feb. 12, 1997]

KIDS CRUISE ON-LINE PORN IN LIBRARY; STUDENTS' 'RIGHT' BACKED AS ANGRY PARENTS LASH OUT

(By Maggie Mulvihill)

Boston parents who thought their kids were busy studying at the public library have been shocked to find out they were pulling up X-rated pictures on the Internet instead.

While city officials are demanding action, a library spokesman said officials can't censor the computer screens because "First Amendment rights do cover kids."

John Hunt, a parent from Dorchester, said he was furious to learn his 11-year-old daughter was able to view pornography yesterday while working on a school essay at the BPL's Copley Square branch.

"She said all the boys were around the computer and they were laughing and called the girls over to look at pictures of naked people," Hunt said. "I want to find out from these library officials what is going on."

Parent Susan Sullivan said she was stunned when her 10-year-old son spent an afternoon researching a book report on the computer in the BPL's Adams Street branch, but ended up looking through explicit photographs instead.

"I'm very, very upset because I have no idea what he saw on the screen," she said. "He said he was using the Internet to do a book report on Indians and he was able to access dirty pictures, pictures of naked people."

However, library spokesman Arthur Dunphy said, "We do have children's librarians but we don't have Internet police."

The lack of controls on library computers used by city schoolchildren has police investigating and city councilors demanding action at a meeting today.

"I'm a believer in early learning, but not this kind of early learning," said City Councilor Peggy Davis-Mullen.

Sgt. Tom Flanagan of Area C–11 in Dorchester said his station has received a number of complaints from parents over the past week, prompting police to ask local library staff to keep a closer eye on kids.

"As far as what these kids are actually getting into, I'm not really sure," Flanagan said. "But we'd like the libraries to be a little more watchful of the kids on the computers, to be a little more aware of what the kids are looking at and monitoring it, especially when the children today are so quick with computers."

Councilor Maureen Feeney of Dorchester said, "A library is supposed to be a safe haven for our children."

Feeney's City Council office has been flooded with calls from angry parents.

The councilor filed an order with the council's Committee on City and Neighborhood Services, which will be heard today, to determine ways to regulate children's Internet access at local libraries.

"My daughter is a fourth-grader and she uses that library so I am especially concerned," Feeney said.

"We encourage children to use computers but I don't want any of our kids to be exposed to that kind of stuff," she said.

Davis-Mullen said she is concerned her second-grade twins will be able to view pornography at local libraries and is calling on officials to keep a closer eye on children using computers.

"These computers are supposed to be tools to enable our children to learn, not look at pornography," she said.

Feeney called the constitutional rights argument "lunacy."

However, Dunphy said a federal court decision last year banned the government from forcing libraries to censor materials on the Internet for children because it violated their First Amendment rights.

The opinion, handed down by the U.S. District Court in Philadelphia, enjoined the government from enforcing portions of the federal Communications Decency Act, because it would unconstitutionally censor materials on the Internet, Dunphy said.

The increasing amount of sexual content on the Internet and World Wide Web had become a major issue nationally.

Internet access providers have offered control commands which give parents the option of restricting their children from using unsupervised chat lines or other areas where X-rated photos or conversation are available.

RESOLUTION ON THE USE OF FILTERING SOFTWARE IN LIBRARIES

Whereas, On June 26, 1997, the United States Supreme Court issued a sweeping reaffirmation of core First Amendment principles and held that communications over the Internet deserve the highest level of Constitutional protection; and

Whereas, The Court's most fundamental holding is that communications on the Internet deserve the same level of Constitutional protection as books, magazines, newspapers, and speakers on a street corner soapbox. The Court found that the Internet "constitutes a vast platform from which to address and hear from a world-wide audience of millions of readers, viewers, researchers, and buyers," and that "any person with a phone line can become a town crier with a voice that resonates farther than it could from any soapbox"; and

Whereas, For libraries, the most critical holding of the Supreme Court is that libraries that make content available on the Internet can continue to do so with the same Constitutional protections that apply to the books on libraries' shelves; and

Whereas, The Court's conclusion that "the vast democratic fora of the Internet" merit full constitutional protection will also serve to protect libraries that provide their patrons with access to the Internet; and

Whereas, The Court recognized the importance of enabling individuals to receive speech from the entire world and to speak to the entire world. Libraries provide those opportunities to many who would not otherwise have them; and

Whereas, The Supreme Court's decision will protect that access; and

Whereas, The use in libraries of software filters which block Constitutionally protected speech is inconsistent with the United Stats Constitution and federal law and may lead to legal exposure for the library and its governing authorities; now, therefore, be it

Resolved, That the American Library Association affirms that the use of filtering software by libraries to block access to constitutionally protected speech violates the *Library Bill of Rights*.

Adopted by the ALA Council, July 2, 1997.

[From Fortune, Sept. 8, 1997]

THE EROTIC ALLURE OF HOME SCHOOLING; WEB PORN SITES

(By Edward W. Desmond)

Pssst. Here's one of the Web's dirty words: Mars. Try searching for sites about the red planet lately, and you could land in a porn purveyor's online playground. What next? Smut linked to the keywords "home schooling"? Don't look now—it's already happened.

Perverse as these connections seem, they're right out of Economics 101, specifically the part about competition. Pornography sites are among the Web's few big moneymakers. There are thousands of them, from the R-rated to the boundlessly perverse. They compete furiously, and their main battleground for market share is search engines like Yahoo, Lycos, Excite, and Infoseek. Web surfers looking for porn typically tap into such search services and use keywords like "sex" and "XXX." But so many online sex shops now display those words that their presence won't make a site stand out in a list resulting from a user's query. To get noticed, pornographers increasingly try to trick search engines into giving them top billing—sometimes called "spoofing."

For a while, spoofing seldom went beyond simple tactics such as stuffing home pages with lines like "SEXSEXSEXSEXSEX." If a search-engine user types "sex," the program looks for sites in its index of millions of pages with the most occurrences of the words. Winners come up first in the search results.

Once that trick became old hat, porn sellers got bolder. Some bought ads on the search engines—one of the more startling ads run recently by Yahoo and Excite reads: "Which site ALSO offers live sorority-slut sex shows, for FREE? Fastporn." Others took spoofing to new depths. Infoseek staffers recently deleted porn pages from the index that were labeled with words like

Tyson, Mars, and home schooling—apparently the sites' sponsors hope to snag unwitting surfers.

Search-engine companies like Infoseek constantly develop new filters to defeat spoofing. But calls still come in from irate mothers and grade-school teachers who click on innocent-looking search results and find themselves on a page too toxic to mention. All this, of course, has direct bearing on the powwows in Washington about making the Web safe for kids. The Clinton Administration is encouraging efforts based on "voluntary restraint." That's a lot to ask in the Web's open bazaar, where market share is the name of the game, not social responsibility.

By Mr. MURKOWSKI:

S. 1483. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of tax-exempt bond financing of certain electrical output facilities; to the Committee on Finance.

TAX-EXEMPT OUTPUT FACILITY BONDS LEGISLATION

Mr. MURKOWSKI. Mr. President, today we are on the verge of a revolution in the transmission and distribution of electricity that is fast bringing about competition and deregulation at both the wholesale and retail level.

Nowhere has the competitive model advanced further than in California, where full deregulation will become a reality at the beginning of 1998. As many as 13 States representing one-third of Americans have moved to competition in the electricity industry.

Today, I am introducing legislation that I believe will enhance all States' ability to facilitate competition. This legislation arises from the Energy Committee's intensive review of the electric power industry and from the Joint Tax Committee's report that I requested.

Over the past two Congresses, the Committee has held 14 hearings and workshops on competitive change in the electric power industry, receiving testimony from more than 130 witnesses. One of the workshops specifically focused on how public power utilities will participate in the competitive marketplace. At these and in other forums, concerns have been expressed by representatives of public power about the potential jeopardy to their tax-exempt bonds if they participate in State competitive programs, or if they transmit power pursuant to FERC order No. 888, or pursuant to a Federal Power Act section 211 transmission order.

The Joint Tax Committee report, titled Federal Income Tax Issues Arising in Connection with Proposal to Restructure the Electric Power Industry, concluded that current tax laws effectively preclude public power utilities from participating in State open access restructuring plans without jeopardizing the tax-exempt status of their bonds. Under the tax law, if the private use and interest restriction is violated, the utility's bonds become retroactively taxable.

These concerns have been echoed by the FERC. For example, in FERC Order No. 888, the Commission stated that reciprocal transmission service by a municipal utility will not be required if providing such service would jeopardize the tax-exempt status of the municipal utility. A similar concern exists if FERC issues a transmission order under section 211 of the Federal Power Act.

Mr. President, if consumers and businesses are to maximize the full benefits of open competition in this industry it will be necessary for all electricity providers to interconnect their facilities into the entire electric grid. Unfortunately, this system efficiency is significantly impaired because of current tax law rules that effectively preclude public power entities—entities that financed their facilities with tax-exempt bonds—from participating in State open access restructuring plans and Federal transmission programs, without jeopardizing the exempt status of their bonds.

No one wants to see bonds issued to finance public power become retroactively taxable because a municipality chooses to participate in a State open access plan. That would cause havoc in the financial markets and could undermine the financial stability of many municipalities. At the same time, public power should not obtain a competitive advantage in the open marketplace based on the Federal subsidy that flows from the ability to issue tax-exempt debt. Clearly we must provide for the transition to allow public providers to enter the private competitive marketplace without severe economic dislocation for municipalities and consumers.

Top remedy this dilemma, I am today introducing legislation that will allow municipal utilities to interconnect and compete in the open marketplace without the draconian retroactive impacts currently required by the Tax Code. My bill is modeled after legislation that passed Congress last year which addressed electricity and gas generation and distribution by local furnishers.

My bill removes the current law impediments to public power's capacity to participate in open access plans if such entities are willing to forego future use of federal subsidized tax-exempt financing. If public power entities make this election, and choose to compete on a level playing field with other power suppliers, tax-exemption of the interest on their outstanding debt will be unaffected. They will be allowed an extended period during which outstanding bonds subject to the private use restrictions may be retired instead of retroactive taxation, which is the situation under existing law. The relief provided by my bill applies equally to outstanding bonds for electric generation, transmission, and distribution facilities.

Mr. President, without this legislation, public power will face an untenable choice: either stay out of the competitive marketplace or face the threat of retroactive taxability of their bonds. With this legislation, public power will be able to transition into the competitive marketplace.

Let me provide a few examples of real-world choices that public power faces today. According to the Joint Tax Committee report, the mere act of transferring public power transmission lines to a privately operated independent service operator [ISO] could cause the public power entity's tax-exempt bonds to be retroactively taxable. Similarly, a transfer of transmission lines to a State-operated ISO could, in many instances, trigger similar retroactive loss of tax exemption depending on the amount or value of the power that is transmitted along those lines to private users.

Moreover, participation in a State open access plan could, de facto, force public power entities to take defensive actions to maintain their competitive position which could inevitably lead to retroactive taxation of their bonds. Such actions would include offering a discounted rate to selective customers or selling excess capacity to a broker for resale under long-term contract at fixed rates or discounted rates.

I have also heard from the California Governor and members of the California Legislature about many of these problems and the need for legislation to address them. I stand ready to work with them and representatives from other States to solve this problem as part of the legislation I introduced today.

Mr. President, my bill allows public power to participate in the new competitive world and provides a safe harbor within which they can transition from tax-exempt financing to the level playing field of the competitive marketplace. In addition, the legislation recognizes that there are some transactions that public power entities engage in that should not jeopardize the tax-exempt status of their bonds under current law and seeks to protect those transactions by codifying the rules governing them. This list may need to be expanded and I look forward to the input of the affected utilities in this regard.

In general, the exceptions contained in this bill closely parallel the policies enunciated in the legislative history of the amendments made in the 1986 Tax Reform Act. For example, the sale of electricity by one public power entity to another public power entity for resale by the second public power entity would be exempt so long as the second public power entity is not participating in a State open access plan. In addition, a public power entity would be allowed to enter into pooling and swap arrangements with other utilities if

the public power entity is not a net seller of output, determined on an annual basis. Finally, the bill contains a de minimis exception for sales of excess output by a facility when such sales do not exceed $1 million.

Mr. President, this legislation attempts to balance many competing interests. This will be a difficult transition and this legislation does not address all the difficult problems to be faced. This is why I emphasize today that this is a starting point for discussion over the months ahead. This will be a difficult transition and this legislation does not address all the difficult problems to be faced. This is why I emphasize today that this is a starting point for discussion over the months ahead. I look forward to receiving comments from all interested parties and will encourage Finance Committee Chairman ROTH to hold hearings on this bill early next year.

I am open to making revisions to this bill consistent with a public policy that emphasizes a level playing field and a soft transition to competition for our important public utilities. I look forward especially to working with the Chairman of the Senate Finance Committee, Senator ROTH, who has been a leader in addressing tax issues relating to competition in this industry.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1483

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

SECTION 1. TREATMENT OF TAX-EXEMPT BOND FINANCING OF CERTAIN ELECTRICAL OUTPUT FACILITIES.

(a) CERTAIN TRANSACTIONS TREATED AS SALES TO GENERAL PUBLIC FOR PURPOSES OF PRIVATE BUSINESS TESTS.—Paragraph (8) of section 141(b) of the Internal Revenue Code of 1986 (defining nonqualified amount) is amended to read as follows:

"(8) NONQUALIFIED AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'nonqualified amount' means, with respect to an issue, the lesser of—

"(i) the proceeds of such issue which are to be used for any private business use, or

"(ii) the proceeds of such issue with respect to which there are payments (or property or borrowed money) described in paragraph (2).

"(B) USE PURSUANT TO CERTAIN TRANSACTIONS NOT TAKEN INTO ACCOUNT.—There shall not be taken into account in determining a nonqualified amount with respect to an issue 5 percent or more of the proceeds of which are to be used with respect to any output facility furnishing electric energy any of the following transactions:

"(i) The sale of output by such facility to another State or local government output facility for resale by such other facility if such other facility is not participating in an open access plan (as defined in subsection (f)(3)) and the output is to be used for government use.

"(ii) Participation by such facility in an output exchange agreement with other output facilities if—

"(I) such facility is not a net seller of output under such agreement determined on not more than an annual basis,

"(II) such agreement does not involve output-type contracts, and

"(III) the purpose of the agreement is to enable the facilities to satisfy differing peak load demands or to accommodate temporary outages.

"(iii) The sale of excess output by such facility pursuant to a single agreement of not more than 30 days duration, other than through an output contract with specific purchasers.

"(iv) The sale of excess output by such facility not to exceed $1,000,000.".

(b) ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING BY CERTAIN ELECTRICAL OUTPUT FACILITIES.—Section 141 of the Internal Revenue Code of 1986 (relating to private activity bond; qualified bond) is amended by adding at the end the following:

"(f) ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING BY CERTAIN ELECTRICAL OUTPUT FACILITIES.—

"(1) IN GENERAL.—In the case of an output facility for the furnishing of electric energy financed with bonds which would cease to be tax-exempt as the result of the participation by such facility in an open access plan, such bonds shall not cease to be tax-exempt bonds if the person engaged in such furnishing by such facility makes an election described in paragraph (2). Such election shall be irrevocable and binding on any successor in interest to such person.

"(2) ELECTION.—An election is described in this paragraph if it is an election made in such manner as the Secretary prescribes, and such person agrees that—

"(A) such election is made with respect to all output facilities for the furnishing of electric energy by such person,

"(B) no bond exempt from tax under section 103 may be issued on or after the date of the participation by such facilities in an open access plan with respect to all such facilities of such person, and

"(C) such outstanding bonds used to finance such facilities for such person are redeemed not later than 6 months after—

"(i) in the case of bonds issued before December 1, 1997, the later of—

"(I) the earliest date on which such bonds may be redeemed, or

"(II) the date of the election, and

"(ii) in the case of bonds issued after November 30, 1997, and before the date of the participation by such facility in an open access plan, the earlier of—

"(I) the earliest date on which such bonds may be redeemed, or

"(II) the date which is 10 years after the date of the enactment of this subsection.

"(3) OPEN ACCESS PLAN.—For purposes of this subsection, the term 'open access plan' means—

"(A) a plan by a State to allow more than 1 electric energy provider to offer such energy in a State authorized competitive market, or

"(B) a plan established or approved by an order issued by the Federal Energy Regulatory Commission which requires or allows transmission of electric energy on behalf of another person.

"(4) RELATED PERSONS.—For purposes of this subsection, the term 'person' includes a group of related persons (within the meaning of section 144(a)(3)) which includes such person.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of output after November 8, 1997.

By Mr. BINGAMAN:

S. 1484. A bill to increase the number of qualified teachers; to the Committee on Labor and Human Resources.

THE QUALITY TEACHER IN EVERY CLASSROOM ACT OF 1997

Mr. BINGAMAN. Mr. Presdient, I rise today to introduce the Quality Teacher in Every Classroom Act, a bill to ensure quality and accountability in Federal efforts to improve public school teaching.

Let me begin by stating that I am a strong supporter of the hard-working teachers in American classrooms. Coming from a family of teachers, I know first-hand how challenging the work is. Having visited schools throughout my home State of New Mexico, I know how dedicated and professional the vast majority of our teachers are. And any time you talk to students, the conversation always comes back to teachers.

However, it's also pretty clear that we are not doing anyone—neither teachers nor students—a great service by putting so many under-qualified teachers in American classrooms, and providing so little support to teachers and the institutions that prepare and support them.

Too often, our teachers lack enough background in their subjects, our colleges of education are not rigorous enough, our state licensing standards are too low, and local districts have too few high-quality candidates to choose from.

Improving teaching quality won't solve all of our educational problems, but it is at the heart of what goes on in individual classrooms around the nation. And as shown on the following charts, the state and national statistics are alarming. None of us is doing as much as is needed to improve teaching quality:

As this first chart shows, most States have a long way to go in promoting teaching quality. In the 1997 Education Week national report card called "Quality Counts," none of the States received an "A", and most received "C's."

Like many other States, New Mexico received a "C-minus" for teaching quality in this report because—while the State does require national certification for all its schools of education: Only 52 percent of NM high school teachers have degrees in their subject areas; the State does not require that teachers have a degree in liberal arts (math, science, history, etc.); and fewer than three-fourths of NM teachers who participated in professional development received some form of support to do so.

As a Nation, we are unfortunately actually doing worse over all as the 1990's have progressed. The just-released 1997

Goals report showed that the percentage of high school teachers with a degree in their subject area actually declined over all from 66 percent in 1990 to 63 percent in 1994. For New Mexico, the percentage has remained near the bottom, at 52 percent.

For New Mexico students, that means that it's about a 50–50 chance whether their teachers have a strong background in the area they are teaching.

And the situation is particularly bleak in the key areas of math and science, where we need to be at our best.

This second chart shows the latest data showing that nearly one in three high school math teachers lacks a math degree. In New Mexico, the percentage was 36 percent, and in other states over half the math teachers lack even a minor in math.

This next charts shows a similar story in the area of high school science. Nearly one in four high school science teachers lacks a science degree. In most states, over 20 percent of the high school science teachers lack that background. It's worth noting that in this area New Mexico fares better than most States, at only 19 percent.

More than 50,000 people are teaching America's children without the minimal training required to meet professional standards. In schools with the highest minority enrollments, minority students have less than a 50% chance of sitting in the class of a math or science teacher with a degree in that field.

From talking to teachers, however, I know that it's they more than anyone else who want our public schools to be improved so that children to learn as much as they can. And that's important, because improving and maintaining the quality of America's teaching force is on the mind of every policy maker today. Clearly, all our efforts at raising curriculum and testing standards for children will be severely diluted without the powerful presence of a competent instructor in each classroom.

More than anything else, the public is demanding properly prepared teachers. A properly prepared teacher in every classroom is a reasonable demand. And the federal government, which has for too long talked about improving teaching without doing anything about it, needs to become a leader in this area. That's what this legislation is all about.

Now I want to be the first to acknowledge that I am not the only one interested in this issue. Senators KENNEDY, REED, FRIST, and others have already introduced teacher training legislation, much of it based on the 1996 findings of the National Commission on Teaching and Learning. And I know that the Chairman of the Labor Committee is extremely interested in this issue. I look forward to working with all of them as the reauthorization of the Higher Education Act continues.

However, this legislation, called the Quality Teacher in Every Classroom Act, is distinctive in several regards. Most importantly, this is the only Senate proposal that provides a thorough formula for reform in teacher training. The legislation addresses the problem comprehensively, and leverages as much improvement as possible given the limited Federal investment in education.

Let me take a moment to describe its main features, which are outlined on the chart summarizing the bill.

First, the Act would take the simple step of making sure that parents have available to them important information about the basic qualifications and academic background of their children's teachers.

Teachers are professionals just like the family doctor or the local lawyer, and so their backgrounds should be just as available as if their diplomas were framed on the wall. I believe that the availability of this information will engage and empower parents in advocating for improved schools.

Second, the Act calls on states to reduce the percentage of teachers who are uncertified or lack a sufficient academic background. States must make zero tolerance for poorly prepared teachers their number one priority.

This bill gives them five years to reduce substantially the number of unlicensed teachers as well as those who are teaching outside of their area of expertise. It also requires them to accept any teacher from another area who has national certification as a master teacher as fully qualified to teach in that state.

Next, the Act calls on colleges of education to make substantial changes in the preparation that they provide teaching candidates, including graduating more students who will pass state teacher licensing exams and requiring a rigorous liberal arts major in an academic subject area, which is not uniformly required.

In addition, the Act will address the lack of high-quality teachers and teaching candidates in our most poverty-stricken schools by providing financial incentives for highly qualified teaching candidates. For each year they taught in high-need areas, new teachers would have their school loans forgiven. And experienced teachers who pursue advanced work such as national certification or Advanced Placement training would also qualify for loan forgiveness.

This incentive should bring new energy and talent to poor communities, inspiring students and instilling parents with renewed confidence in their children's schools.

Finally, the bill would help improve the recruitment and support provided for new teachers by creating a competitive grant program to fund partnerships among colleges of education, school districts, and schools.

Each member of the partnership including a school district, a school that includes at least 30% children who meet criteria for poverty, and a university or college that offers teacher preparation. Special priority would be given to applications that used or created laboratory or "teaching" schools with their partner districts, where teaching candidates learn hands-on.

In conclusion, I would like to say that I am excited to introduce a bill that brings together so many of the legislative agendas I have been promoting for many years: rigorous standards, constructive support for those who are failing to meet those standards, and a comprehensive approach to solving central problems of American public life.

I ask unanimous consent that a copy 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. 1484

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 "Quality Teacher in Every Classroom Act".

SEC. 2. STATEMENT OF POLICY; FINDINGS.

(a) STATEMENT OF POLICY.—The Congress declares it to be the policy of the United States that each student shall have a competent and qualified teacher.

(b) FINDINGS.—Congress makes the following findings:

(1) The number of elementary and secondary school students is expected to increase each successive year between 1997 and 2006, at which time total enrollment will reach 54,600,000.

(2) As the number of students increases, the need for qualified teachers will increase. Increases in enrollment and teacher retirements together will create demand for 2,000,000 new teachers by the year 2006.

(3) The lack of qualified teachers to meet this demand is a significant barrier to students receiving an appropriate education.

(4) The National Commission on Teaching and America's Future has found that one-quarter of the Nation's classroom teachers are not fully qualified to teach in their subject areas. Unless corrective action is taken at the local, State, and Federal levels, the additional demand for teachers is likely to result in a further decline in teacher quality.

(5) 1997 is the time to redouble efforts to ensure that teachers are properly prepared and qualified, and receive the ongoing support and professional development teachers need to be effective educators.

TITLE I—PARENTAL RIGHTS

SEC. 101. PARENTAL RIGHT TO KNOW.

Part E of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8891 et seq.) is amended by adding at the end the following:

"SEC. 14515. TEACHER QUALIFICATIONS.

"Any public elementary school or secondary school that receives funds under this Act shall provide to the parents of each student enrolled in the school information regarding—

"(1) the qualifications of each of the student's teachers, both generally and with respect to the content area or areas in which the teacher provides instruction; and

"(2) the minimum qualifications required by the State for teacher certification or licensure.".

TITLE II—QUALIFIED TEACHERS

SEC. 201. ENSURING A QUALIFIED TEACHER IN EVERY CLASSROOM.

Part E of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8891 et seq.) (as amended by section 101) is further amended by adding at the end the following:

"SEC. 14516. ENSURING A QUALIFIED TEACHER IN EVERY CLASSROOM.

"To be eligible to receive funds under this Act, each State shall ensure that—

"(1) not later than the period that begins on the date of enactment of this section and ends 5 years after such date, and subject to paragraphs (2) and (3), each teacher in a public elementary school or secondary school in the State has demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the content area or areas in which the teacher provides instruction;

"(2) each teacher in the State for whom the demonstration described in paragraph (1) has been waived temporarily by State or local education agencies to respond to emergency teacher shortages or other circumstances shall, not later than 3 years after such waiver, demonstrate the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the content area or areas in which the teacher provides instruction;

"(3) no student will be taught for more than 1 year by an elementary school teacher, or for more than 2 consecutive years in the same subject by a secondary school teacher, who has not made the demonstration described in paragraph (1);

"(4) the State provides incentives for teachers to pursue and achieve advanced teaching and subject area content standards;

"(5) the State has in place an effective mechanism to remove incompetent or unqualified teachers;

"(6) the State aggressively helps schools, particularly schools in high need areas, recruit and retain qualified teachers;

"(7) during the period described in paragraph (1), elementary school and secondary school teachers who do not meet the requirements of paragraph (1), shall not be disproportionately employed in high poverty elementary schools or secondary schools; and

"(8) any teacher who meets the standards set by the National Board for Professional Teaching Standards is considered fully qualified to teach in any school district or community in the State.".

TITLE III—FEDERAL FUNDS USED IN THE PREPARATION OF TEACHERS

SEC. 301. MINIMUM TEACHER TRAINING STANDARDS.

Title V of the Higher Education Act of 1965 (20 U.S.C. 1101 et seq.) is amended by inserting after section 500 of such Act (20 U.S.C. 1101) the following:

"SEC. 500A. MINIMUM TEACHER TRAINING STANDARDS.

"(a) GENERAL REQUIREMENT.—Any institution of higher education that receives, directly or indirectly, any funds appropriated pursuant to this Act or pursuant to any other Federal law for the purpose of preparing or training teachers shall—

"(1)(A) meet nationally recognized professional standards for accreditation; or

"(B) demonstrate to the Secretary that at least 90 percent of the graduates of such institution who enter the field of teaching take, and pass on their first attempt, the State teacher certification or licensure examination for new teachers that is in place on the day of enactment of the Quality Teacher in Every Classroom Act; and

"(2) ensure that the graduates hold a liberal arts degree (consisting of a minimum of 18 credits in a social science, arts, humanities, science, or mathematics major) in addition to professional education courses leading to State teacher certification or licensure.

"(b) AUTHORITY OF SECRETARY TO WAIVE.—The Secretary may issue a one-time waiver, for a duration of not more than 5 years, in any case in which an institution of higher education can demonstrate a bona fide commitment to, and demonstrate measurable progress toward, meeting the requirements of subsection (a).".

TITLE IV—INCENTIVES FOR INCREASING THE SUPPLY OF QUALIFIED TEACHERS

SEC. 401. LOAN FORGIVENESS.

(a) GUARANTEED LOANS.—Section 437 of the Higher Education Act of 1965 (20 U.S.C. 1087) is amended—

(1) in the section heading, by striking the period at the end and inserting a semicolon and "**LOAN FORGIVENESS FOR TEACHING.**";

(2) by amending the heading for subsection (c) to read as follows: "DISCHARGE RELATED TO SCHOOL CLOSURE OR FALSE CERTIFICATION.—"; and

(3) by adding at the end thereof the following new subsection:

"(e) CANCELLATION OF LOANS FOR TEACHING.—

"(1) IN GENERAL.—The Secretary shall discharge the liability of a borrower of a loan made under section 428, 428H, or 428C (to the extent that a loan made under section 428C repays a loan made under section 428 or 428H) on or after the date of enactment of the Quality Teacher in Every Classroom Act, to students who have not previously borrowed under any of such sections, by repaying the amount owed on the loan, to the extent specified in paragraph (3), for service described in paragraph (2) as a full time teacher who—

"(A) has demonstrated, in accordance with State teacher certification or licensure law, the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the content area or areas for which the borrower provides instruction;

"(B) has a liberal arts major (in the subject in which the teacher teaches if the teacher teaches in a secondary school) consisting of a minimum of 18 credits in a social science, arts, humanities, science, or mathematics major;

"(C)(i) graduated in the top 25 percent of the teachers class in college (as determined by the teacher's grade point average in college); or

"(ii) scored in the top 20 percent of students taking a Graduate Record Examination (GRE) or a State teacher certification or licensure examination; and

"(D) graduated from an institution of higher education that meets the requirements of section 500A.

"(2) QUALIFYING SERVICE.—

"(A) IN GENERAL.—A loan shall be discharged under paragraph (1) for service by the borrower as a full-time teacher for 1 or more academic years in a public elementary or secondary school—

"(i)(I) in the school district of a local educational agency that is eligible in that academic year for assistance under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.); and

"(II) that, for that academic year, has been determined by the Secretary to be a school in which the enrollment of children counted under section 1124(c) of that Act (20 U.S.C. 6333(c)) exceeds 30 percent of the total enrollment of that school; or

"(ii) in an academic subject matter area in which the State or local educational agency determines to the satisfaction of the Secretary that there is a shortage of qualified teachers.

"(B) ACCELERATED DISCHARGE.—A loan shall be discharged under paragraph (1) at the rate provided in paragraph (3)(B) for service described in clause (i) or (ii) of subparagraph (A) by the borrower as a full-time teacher for 1 or more academic years if such borrower—

"(i) has engaged in such service for each of the 5 preceding academic years; and

"(ii) has pursued and achieved advanced teaching credentials, such as certification by the National Board for Professional Teaching Standards, Advanced Placement Institutes training, or a graduate degree in a related field.

"(3) PERCENTAGE OF CANCELLATION.—

"(A) IN GENERAL.—Loans shall be discharged under paragraph (1) for service described in paragraph (2)(A) at the rate of—

"(i) 20 percent for the first or second complete academic year of such service, which amount for each year shall not exceed $6,000;

"(ii) 25 percent for the third complete year of such service, which amount shall not exceed $7,500; and

"(iii) 35 percent for the fourth complete year of such service, which amount shall not exceed $10,500;

except that the total amount for all such academic years shall not exceed $30,000.

"(B) ACCELERATED DISCHARGE.—Loans shall be discharged under paragraph (1) for service described in paragraph (2)(B) at the rate of 50 percent for each complete academic year of such service, except that the total amount discharged shall not exceed $5,000 for any borrower.

"(C) TREATMENT OF INTEREST.—If a portion of a loan is discharged under subparagraph (A) or (B) for any year, the entire amount of interest on that loan that accrues for that year shall also be discharged by the Secretary.

"(D) REFUNDING PROHIBITED.—Nothing in this section shall be construed to authorize refunding of any repayment of a loan.

"(4) TREATMENT OF CANCELED AMOUNTS.—The amount of a loan, and interest on a loan, that is canceled under this subsection shall not be considered income for purposes of the Internal Revenue Code of 1986.

"(5) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same volunteer service, receive a benefit under both this subsection and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

"(6) LENDER REIMBURSEMENT.—The Secretary shall specify in regulations the manner in which lenders shall be reimbursed for loans made under this part, or portions thereof, that are discharged under this subsection.

"(7) LIST OF SCHOOLS.—

"(A) PUBLICATION.—The Secretary shall publish annually a list of the schools for which the Secretary makes a determination under paragraph (2)(A)(i)(II).

"(B) SPECIAL RULE.—If the list of schools described in subparagraph (A) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

"(8) CONTINUING ELIGIBILITY.—Any teacher who performs service in a school which—

"(A) meets the requirements of paragraph (2)(A) in any year during such service; and

"(B) in a subsequent year fails to meet the requirements of such paragraph,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to paragraph (1) with respect to such subsequent years.".

(b) DIRECT LOANS.—Part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087h et seq.) is amended by adding at the end the following:

"SEC. 459. CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE.

"(a) CANCELLATION OF PERCENTAGE OF DEBT BASED ON YEARS OF QUALIFYING SERVICE.—

"(1) IN GENERAL.—The percent specified in paragraph (3) of the total amount of any loan made under this part after the date of enactment of the Quality Teacher in Every Classroom Act, to students who have not previously borrowed under this part, shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2) for service as a full time teacher who has demonstrated, in accordance with State teacher certification or licensure law, the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the content area or areas for which the borrower provides instruction.

"(2) QUALIFYING SERVICE.—

"(A) IN GENERAL.—A loan shall be discharged under paragraph (1) for service by the borrower as a full-time teacher for 1 or more academic years in a public elementary or secondary school—

"(i)(I) in the school district of a local educational agency that is eligible in that academic year for assistance under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.); and

"(II) that, for that academic year, has been determined by the Secretary to be a school in which the enrollment of children counted under section 1124(c) of that Act (20 U.S.C. 6333(c)) exceeds 30 percent of the total enrollment of that school; or

"(ii) in an academic subject matter area in which the State or local educational agency determines to the satisfaction of the Secretary that there is a shortage of qualified teachers.

"(B) ACCELERATED DISCHARGE.—A loan shall be discharged under paragraph (1) at the rate provided in paragraph (3)(B) for service described in clause (i) or (ii) of subparagraph (A) by the borrower as a full-time teacher for 1 or more academic years if such borrower—

"(i) has engaged in such service for each of the 5 preceding academic years; and

"(ii) has pursued and achieved advanced teaching credentials.

"(3) PERCENTAGE OF CANCELLATION.—

"(A) IN GENERAL.—Loans shall be discharged under paragraph (1) for service described in paragraph (2)(A) at the rate of—

"(i) 20 percent for the first or second complete academic year of such service, which amount for each year shall not exceed $6,000;

"(ii) 25 percent for the third complete year of such service, which amount shall not exceed $7,500; and

"(iii) 35 percent for the fourth complete year of such service, which amount shall not exceed $10,500;

except that the total amount for all such academic years shall not exceed $30,000.

"(B) ACCELERATED DISCHARGE.—Loans shall be discharged under paragraph (1) for service described in paragraph (2)(B) at the rate of 50 percent for each complete academic year of such service, except that the total amount discharged shall not exceed $5,000 for any borrower.

"(C) TREATMENT OF INTEREST.—If a portion of a loan is discharged under subparagraph (A) or (B) for any year, the entire amount of interest on that loan that accrues for that year shall also be discharged by the Secretary.

"(D) REFUNDING PROHIBITED.—Nothing in this section shall be construed to authorize refunding of any repayment of a loan.

"(4) DEFINITION.—For the purpose of this section, the term 'year' where applied to service as a teacher means an academic year as defined by the Secretary.

"(5) TREATMENT OF CANCELED AMOUNTS.—The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1986.

"(6) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

"(b) SPECIAL RULES.—

"(1) LIST.—

"(A) PUBLICATION.—The Secretary shall publish annually a list of the schools for which the Secretary makes a determination under paragraph (2)(A)(i)(II).

"(B) SPECIAL RULE.—If the list of schools described in subparagraph (A) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

"(2) CONTINUING ELIGIBILITY.—Any teacher who performs service in a school which—

"(A) meets the requirements of subsection (a)(2)(A) in any year during such service; and

"(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (a)(1) with respect to such subsequent years.".

TITLE V—BEGINNING TEACHER RECRUITMENT AND SUPPORT

SEC. 501. PROGRAM ESTABLISHED.

Title V of the Higher Education Act of 1965 (20 U.S.C. 1101 et seq.) is amended by adding at the end the following:

"PART G—BEGINNING TEACHER RECRUITMENT AND SUPPORT

"SEC. 599A. DEFINITIONS.

"In this part:

"(1) PARTICIPANT.—The term 'participant' means an individual who receives assistance under this part.

"(2) PARTNERSHIP.—The term 'partnership' means a partnership consisting of—

"(A) a local educational agency, a subunit of such agency, or a consortium of such agencies; and

"(B) 1 or more nonprofit organizations, including institutions of higher education—

"(i) each of which have a demonstrated record of success in teacher preparation and staff development;

"(ii) that have expertise and a demonstrated record of success, either collectively or individually, in providing teachers with the subject matter knowledge, teaching knowledge, and teaching skills necessary for the organizations to teach effectively in each and every content area in which the organizations plan to prepare teachers to provide instruction under a grant made under this part; and

"(iii) that include at least 1 teacher preparation institution, or school or department of education within an institution of higher education that meets the requirements of section 500A (as added by section 301 of the Quality Teacher in Every Classroom Act) and is not subject to a waiver under section 500A(b).

"(3) ELIGIBLE SCHOOL.—The term 'eligible school' means a public elementary school or secondary school—

"(A)(i) served by a local educational agency that is eligible for assistance under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.); and

"(ii) that has been determined by the Secretary to be a school in which the enrollment of children counted under section 1124(c) of that Act (20 U.S.C. 6333(c)) exceeds 30 percent of the total enrollment of the school; or

"(B) that the State educational agency or local educational agency determines, to the satisfaction of the Secretary, has a shortage of qualified teachers.

"SEC. 599B. PROGRAM AUTHORIZED.

"(a) GRANTS BY THE SECRETARY.—The Secretary shall use funds made available pursuant to this part to award grants, on a competitive basis, to partnerships for the purpose of recruiting, training, and supporting qualified entry-level elementary school or secondary school teachers to teach in eligible schools.

"(b) DURATION.—Grants shall be awarded for a period of 3 years, of which not more than 1 year may be used for planning and preparation.

"SEC. 599C. USES OF FUNDS.

"(a) PARTNERSHIPS.—Each partnership receiving a grant under this part shall use the grant funds to—

"(1) recruit and screen individuals for assistance under this part;

"(2) establish and conduct intensive summer preplacement professional development seminars for participants;

"(3) establish and conduct ongoing and intensive professional development and support programs for participants during the participants' first 3 years of teaching service, that incorporate—

"(A) State curriculum standards for kindergarten through 12th grade students;

"(B) national professional standards for the teaching of specific subjects; and

"(C) the use of educational technology to improve learning, especially the use of computers and computer networks; and

"(4) annually evaluate the performance of participants to determine whether the participants meet standards for continued participation in the activities assisted under this part.

"(b) CRITERIA.—

"(1) IN GENERAL.—The partnership shall select a participant according to criteria designed to—

"(A) attract highly qualified individuals to teaching, including individuals with post-college employment experience who plan to enter teaching from another occupational field; and

"(B) meet the needs of eligible schools in addressing shortages of qualified teachers in specific academic subject areas.

"(2) SPECIFIC CRITERIA.—Such criteria shall include that each participant has demonstrated the ability to attain the subject matter knowledge, teaching knowledge, and teaching skills necessary to teach effectively in the content area or areas in which the participant will provide instruction.

"(3) SPECIAL CONSIDERATION.—Each partnership shall make a particular effort to recruit for participation in activities assisted under this part individuals who are members of populations that are underrepresented in the teaching profession, especially in the curricular areas in which such individuals are preparing to teach.

"(4) MINIMUM NUMBER OF TEACHERS PER SCHOOL.—The partnership shall ensure that the number of beginning participant teachers is equal to not less than 3 percent of the faculty of the eligible schools to which the participant teachers are assigned, except that in no circumstance shall fewer than 2 beginning participant teachers be assigned to each eligible school.

"SEC. 599D. PARTNERSHIP APPLICATION.

"(a) IN GENERAL.—In order to receive funds under this part, a partnership shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each application shall—

"(1) describe how the partnership shall select individuals to receive assistance under this part;

"(2) describe how recruitment will meet the needs of eligible schools, especially with regard to the particular academic subject areas in which there is a shortage of qualified teachers;

"(3) describe how the partnership will advance the subject matter knowledge, teaching knowledge, and teaching skill of all participants in ongoing professional development and support activities;

"(4) describe how school faculty will be involved in the planning and execution of ongoing professional development and support activities, including paired mentorships between participants and experienced classroom teachers;

"(5) provide assurances that—

"(A) participants are paid at rates comparable to other entry-level teachers in the school district where the participants are assigned to teach; and

"(B) master teachers are provided with stipends for their mentoring services;

"(6) describe how the partnership will monitor, and report not less than annually regarding, the progress of participants, including—

"(A) the retention rate for participant teachers in comparison with other teachers in the same schools in which participant teachers teach; and

"(B) the academic achievement of students served by participant teachers, in comparison to those students taught by other entry-level teachers;

"(7) describe direct and indirect contributions to the overall cost of the program by the State and local educational agency, and the extent to which the partnership activities will be integrated with other professional development and educational reform efforts (including federally funded efforts such as the programs under titles I and II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq., 6601 et seq.)); and

"(8) contain an assurance that the chief State school officer or the officer's designee has reviewed and approved the application.

"(b) SPECIAL RULE.—The Secretary shall give special consideration to funding applications for assistance under this part to partnerships that include teacher preparation institutions described in section 599A(a)(2)(B)(iii) that—

"(1) support or have plans to support professional development schools or laboratory schools; and

"(2) are not subject to a waiver under section 500A(b).

"(c) DEVELOPMENT AND SUBMISSION.—The members of the partnership shall jointly develop and submit the application for assistance under this part.

TITLE VI—GENERAL PROVISIONS

SEC. 601. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS.

Nothing in this Act or any amendment made by this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private or religious school that does not receive Federal funds or does not participate in Federal programs or services under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

SEC. 602. APPLICABILITY TO HOME SCHOOLS.

Nothing in this Act or any amendment made by this Act shall be construed to affect home schools.

By Mr. WARNER (for himself and Mr. STEVENS):

S. 1486. A bill to authorize acquisition of certain real property for the Library of Congress, and for other purposes; to the Committee on Rules and Administration.

REAL PROPERTY ACQUISITION AUTHORIZATION LEGISLATION

Mr. WARNER. Mr. President, in my capacity as chairman of the Rules Committee, I rise to introduce legislation that will authorize the acquisition of property for use by the Library of Congress. This legislation will allow the Library of Congress to take advantage of a unique opportunity to advance the preservation of the Library's motion pictures, recorded sound, television and radio collections, a unique record of American life and history in the 20th century.

The Library of Congress is clearly facing a crisis in fulfilling its statutory—and I underline, Mr. President, "statutory"—obligations to preserve, maintain and make available these national collections. The Library must vacate its Suitland, MD, storage location by next May 1998. Facilities in Ohio at Wright Patterson Air Force Base are beyond cost-effective repair. This has created an urgent need to find a new facility.

The former Richmond Federal Reserve facility in Culpepper, VA, is currently available for purchase on the open market and it already has many of the attributes, that is, the physical attributes, the construction and the like, needed to consolidate the Library's collection in a single, efficient facility for conservation, storage and access. That facility in Culpepper, VA, is reasonably accessible from the Nation's Capital for scholars and others to work on this material.

The staff of the Rules Committee has reviewed an extensive financial analysis the Library provided us, showing alternative arrangements and sites for creating an audiovisual and digital master conservation center. The analysis concluded that Culpepper, VA, by allowing consolidation of various storage and Library sites into a single facility, is the most cost-effective option that they have found to date. We can increase the cost-effectiveness of this proposal for the taxpayer even further by taking advantage now of a generous offer by a nationally known foundation to provide up to a $10 million donation for the purchase and initial modifications of the Culpepper property.

However, it appears the gift will only be available if Congress passes legislation as incorporated in this bill and in this session to authorize acceptance of the building by the Architect of the Capitol.

I stress, Mr. President, that this $10 million gift to the American taxpayers for preservation of this very important collection—and I participated somewhat in the discussion of this with the chairman of the board of the foundation together with the Librarian of Congress. We have reason to believe that if we do not act in this session, this gift might not be available at the time the Congress resumes its work next year. Congress clearly has responsibility to enable the Library to fulfill its statutory mandates to preserve these collections, and these urgent storage and access needs must be addressed both from an oversight and an appropriations viewpoint. We now have an opportunity to meet these needs in a cost-effective manner, which takes advantage of a significant private donation.

In my view, moving forward with the Culpepper option at this time is in the best interests of the Library and the American taxpayers. Therefore, I hope all Members will support this legislation promptly, that it can be cleared on the hotline here within the next 24 hours, and that this body, the Senate, will act. I have reason to believe, having had consultations with my colleagues in the House with comparable responsibility as the Rules Committee, that the House will quickly accept this bill.

Mr. President, I yield the floor.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1488. A bill to ratify an agreement between the Aleut Corp. and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes; to the Committee on Energy and Natural Resources.

THE ADAK ISLAND NAVAL BASE REUSE FACILITATION ACT OF 1997

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation which will facilitate and promote the

successful commercial reuse of the Naval Air Facility being closed on Adak Island, AK. This legislation will ratify an agreement between the Aleut Corp. in Alaska, the Department of the Interior, and the Department of the Navy.

While not yet complete, the Aleut Corp. has been working together with the Department of the Interior and the Department of the Navy on the agreement that would be ratified by this legislation. I know from my Aleutian constituents that a good number of issues have been resolved through extracted negotiations, but that important issues remain on the table. it is my hope that the remaining issues can be resolved through mutual agreement prior to hearings on this bill early next year. In the meantime, it is imperative that the Navy make the facilities at Adak available for interim reuse, as has been done with transfers at other closed facilities.

For many decades the Navy has been an important and steadfast constituent in Alaska's Aleutian Chain. Their presence was first established during World War II with the selection and development of the island because of its combination of ability to support a major airfield and its natural and protected deep water port. The Navy's presence there contributed greatly to the defense of our Pacific coast during World War II and throughout the cold war. Through the Navy's presence, Adak became the largest development in the Aleutians as well as Alaska's sixth largest community.

The facility was selected for closure during the last base closure round, and while the importance of using the island for defense purposes has diminished, it has not lost any of its unique geographic advantages. Adak is a natural stepping stone to Asia and is at the crossroads of air and sea trade between North America, Europe, and Asia. The Aleutian Islands, although stark and desolate to some, are the ancestral home to the shareholders of the Aleut Corp. This legislation will allow Adak's natural constituents, the Aleut people, to reinhabit the island and to make use of its modern developments.

These very same features that made Adak strategically important to the Navy for defense purposes make the island strategically important for commercial purposes. Adak Island is at the middle of the great expanse of the Aleutian Islands, and is among the island chain's southernmost islands, near to the great circle route shipping lanes. With the ability to use Adak commercially, the Aleut Corp. aims to make the island an important intercontinental location with enterprise enough to provide year round jobs for the Aleut people. These goals are consistent with the promises and the Alaska Native Claims Settlement Act, the legislation that created the corporation.

The legislation supports the broader interests of the country as well. In addition to the Navy, Adak has housed the Department of the Interior's Aleutian Islands subunit of the Alaska Maritime National Wildlife Refuge. This legislation promotes the Department of the Interior's interests in managing and protecting the refuge by the exchange of base lands for certain property interests the Aleut Corp. holds throughout the rest of the Aleutian Islands refuge. In addition to the Department of the Interior, the Department of Defense is promoting this exchange as the most effective way to meet this country's objectives of conversion of closed defense facilities into successful commercial reuse.

Many potential concurrent reuse possibilities of the Adak lands are being explored. These include but are certainly not limited to an air and sea transhipment, refueling and reprovisions facility, a new ecotourism cruise ship destination, a law enforcement or Job Corps training facility or a somewhat less glamorous but nonetheless needed correctional facility. All these are possibilities available through enactment of this legislation.

Mr. President, it is my intention to hold a hearing on this legislation at the earliest opportunity when Congress returns next year. I suggest to all the parties to this agreement that I will be keeping a close eye on progress toward expedient closure on the final issues. If progress is not made, or if negotiated commitments are not honored, I am prepared to modify this legislation and direct an appropriate structure for this land exchange.

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

S. 1489. A bill to provide the public with access to outfitted activities on Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

THE OUTFITTER POLICY ACT OF 1997

Mr. CRAIG. Mr. President, I am pleased to introduce today the Outfitter Policy Act of 1997.

This legislation puts into law many of the management practices by which Federal land management agencies have successfully managed the outfitter and guide industry on national forests, national parks and other Federal lands over many decades.

The bill recognizes that many Americans need and seek the skills and experience of commercial outfitters and guides in order to enjoy a safe and pleasant journey through wild lands and over the rivers and lakes that are the spectacular destinations for many visitors to our Federal lands.

My bill assures the public continued opportunities for reasonable and safe access to these special areas. It assures high standards will be met for the health and welfare of visitors who chose outfitted services and quality professional services will be avaiable for their recreational and educational experiences on federal land.

This legislation is called for because the management of outfitted and guided services by this administration has created problems that threaten to destabilize some of these typically small, independent outfitter and guide businesses. In addressing these problems, this legislation relies heavily on practices that have historically worked well for outfitters, visitors, and other user groups, as well as for Federal land managers in the field. When the bill is enacted, it will assure that these past fine levels of service are continued and enhanced.

When I introduced similar legislation, S. 2194, at the conclusion of the 104th Congress, I did do so for the purpose of creating discussion concerning outfitter and guide operations within the context of the broader issue of concessioner reform that this Congress has been addressing for two decades.

In the year that has followed, the Senate Committee on Energy and Natural Resources has held one oversight hearing on concessions operations, but has not yet addressed the issue of concessions that specifically offer outfitting and guiding services. S. 2194 provided the intended opportunity for discussion, however. It has allowed for the examination of the historical practices that have offered consistent, reliable outfitter services to the public. This earlier version of the bill also facilitated a discussion of the need for consistency between Federal agencies in the management of outfitted services and allowed the opportunity to examine policies that have provided high quality recreation services, protection of natural resources, a fair return to the government, and reasonable economic stability that the public expects. The legislation I am now introducing is a result of those discussions.

I look forward to a hearing on this legislation and to moving with its enactment in the coming session of the 105th Congress.

By Mr. JEFFORDS.

S. 1490. A bill to improve the quality of child care provided through Federal facilities and programs, and for other purposes; to the Committee on Governmental Affairs.

QUALITY CHILD CARE FOR FEDERAL EMPLOYEES ACT

Mr. JEFFORDS. Mr. President, I rise today to introduce the Quality Child Care for Federal Employees Act. This bill was drafted with an eye toward several serious incidents which occurred earlier this year in federal child care facilities. At that time, it came to my attention that child care centers located in Federal facilities are not subject to even the most minimal health and safety standards.

As you know, Federal property is exempt from State and local laws, regulations, and oversight. What this means for child care centers on that property is that State and local health and safety standards do not and cannot apply. This might not be a problem if federally owned or leased child care centers met enforceable health and safety standards. I think most parents who place their children in Federal child care would assume that this would be the case. However, I think Federal employees will find it very surprising to learn, as I did, that, at many centers, no such health and safety standards apply.

I find this very troubling, and I think we sell our Federal employees a bill of goods when federally-owned leased child care cannot guarantee that their children are in safe facilities. The Federal Government should set the example when it comes to providing safe child care. It should not turn an apathetic shoulder from meeting such standards simply because State and local regulations do not apply to them.

In 1987, Congress passed the Trible Amendment which permitted executive, legislative, and judicial branch agencies to utilize a portion of federally-owned or leased space for the provision of child care services for Federal employees. The General Services Administration [GSA] was given the authority to provide guidance, assistance, and oversight to Federal agencies for the development of children centers. In the decade since the Trible Amendment was passed, hundreds of Federal facilities throughout the Nation have established onsite child care centers which are a tremendous help to our employees.

The General Services Administration has done an excellent job of helping agencies develop child care centers and have adopted strong standards for those centers located in GSA leased or owned space. However, there are over 100 child care centers located in Federal facilities that are not subject to the GSA standards or any other laws, rules, or regulations to ensure that the facilities are safe places for our children. Most parents, placing their children in a Federal child care center, assume that some standards are in place—assume that the centers must minimally meet State and local child care licensing rules and regulations. They assume that the centers are subject to independent oversight and monitoring to continually ensure the safety of the premises.

Yet, that is not the case. In a case where a Federal employee had strong reason to suspect the sexual abuse of her child by an employee of a child care center located in a Federal facility, local child protective services and law enforcement personnel were denied access to the premises and were prohibited from investigating the incident. Another employee's child was repeatedly injured because the child care providers under contract with a Federal agency to provide onsite child care services failed to ensure that age-appropriate health and safety measures were taken—current law says they were not required to do so, even after the problems were identified and injuries had occurred.

As Congress and the administration turn their spotlight on our Nation's child care system, we must first get our own house in order. We must safeguard and protect the children receiving services in child care centers housed in Federal facilities. Our employees should not be denied some assurance that the centers in which they place their children are accountable for meeting basic health and safety standards.

The Quality Child Care for Federal Employees Act will require all child care services located in Federal facilities to meet, at the very least, the same level of health and safety standards required of other child care centers in the same geographical area. That sounds like common sense, but as we all know too well, common sense is not always reflected in the law. This bill will make that clear.

Further, this legislation demands that Federal child care centers begin working to meet these standards now. Not next year, not in 2 years, but now. Under this bill, after 6 months we will look at the Federal child care centers again, and if a center is not meeting minimal State and local health and safety regulations at that time, that child care facility will be closed until it does. I can think of no stronger incentive to get centers to comply.

Now, just as there have often been difficulties with Federal facilities ignoring State and local standards simply because of a division of power between the Federal and State governments, so, too, do divisions in the Federal Government—what we call the separation of powers—help create chaos in enforcement at the Federal level. Who has oversight of the facilities in the Federal Government, and who is responsible for monitoring and enforcement?

Mr. President, this legislation respects the separation of powers within the Federal Government, but it also makes it very clear where the oversight and responsibility for meeting health and safety standards lies. For the most part, centers located in agencies within the executive branch—within, for example, the Department of Veterans' Affairs—will retain responsibility for monitoring and ensuring compliance. For centers within the jurisdiction of the legislative branch, including the Library of Congress, this responsibility will lie with the Architect of the Capitol or his designee. In the judicial branch, monitoring and compliance will fall under the jurisdiction of the Director of the Administrative Office of the U.S. Courts. The GSA will continue to monitor centers it owns and leases in the judicial and executive branches. The costs of this monitoring are already included in this year's appropriations bills and will not add to the deficit.

It should also be made clear that State and local standards should be a floor for basic health and safety, and not a ceiling. The role of the Federal Government—and, I like to think, of the U.S. Congress in particular—is to constantly strive to do better and to lead by example. Federal facilities should always try to meet the highest possible standards. In fact, the GSA has required national accredition in GSA-owned and leased facilities, and has stated that its centers are either in compliance or are strenuously working to get there. This is the kind of tough standard we should strive for in all of our Federal child care facilities.

Federal child care should mean something more than simply location on a Federal facility. The Federal Government has an obligation to provide safe care for its employees, and it has a responsibility for making sure that those standards are monitored and enforced. Some Federal employees receive this guarantee. Many do not. We can do better.

I urge swift passage of this legislation, and thank my colleagues for their attention to this matter.

Mr. President, I ask unanimous consent that the text of my legislation appear in the RECORD.

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

S. 1490

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 "Quality Child Care for Federal Employees Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) ACCREDITED CHILD CARE CENTER.—The term "accredited child care center" means—

(A) a center that is accredited, by a child care credentialing or accreditation entity recognized by a State, to provide child care to children in the State (except children who a tribal organization elects to serve through a center described in subparagraph (B));

(B) a center that is accredited, by a child care credentialing or accreditation entity recognized by a tribal organization, to provide child care for children served by the tribal organization;

(C) a center that is used as a Head Start center under the Head Start Act (42 U.S.C. 9831 et seq.) and is in compliance with any applicable performance standards established by regulation under such Act for Head Start programs; or

(D) a military child development center (as defined in section 1798(1) of title 10, United States Code).

(2) CHILD CARE CREDENTIALING OR ACCREDITATION ENTITY.—The term "child care

credentialing or accreditation entity'' means a nonprofit private organization or public agency that—

(A) is recognized by a State agency or tribal organization; and

(B) accredits a center or credentials an individual to provide child care on the basis of—

(i) an accreditation or credentialing instrument based on peer-validated research;

(ii) compliance with applicable State and local licensing requirements, or standards described in section 658E(c)(2)(E)(ii) of the Child Care and Development Block Grant Act (42 U.S.C. 9858c(c)(2)(E)(ii)), as appropriate, for the center or individual;

(iii) outside monitoring of the center or individual; and

(iv) criteria that provide assurances of—

(I) compliance with age-appropriate health and safety standards at the center or by the individual;

(II) use of age-appropriate developmental and educational activities, as an integral part of the child care program carried out at the center or by the individual; and

(III) use of ongoing staff development or training activities for the staff of the center or the individual, including related skills-based testing.

(3) CREDENTIALED CHILD CARE PROFESSIONAL.—The term ''credentialed child care professional'' means—

(A) an individual who is credentialed, by a child care credentialing or accreditation entity recognized by a State, to provide child care to children in the State (except children who a tribal organization elects to serve through an individual described in subparagraph (B)); or

(B) an individual who is credentialed, by a child care credentialing or accreditation entity recognized by a tribal organization, to provide child care for children served by the tribal organization.

(4) STATE.—The term ''State'' has the meaning given the term in section 658P of the Child Care and Development Block Grant Act (42 U.S.C. 9858n).

SEC. 3. PROVIDING QUALITY CHILD CARE IN FEDERAL FACILITIES.

(a) DEFINITION.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of General Services.

(2) ENTITY SPONSORING A CHILD CARE CENTER.—The term ''entity sponsoring a child care center'' means a Federal agency that operates, or an entity that enters into a contract or licensing agreement with a Federal agency to operate, a child care center.

(3) EXECUTIVE AGENCY.—The term ''Executive agency'' has the meaning given the term in section 105 of title 5, United States Code, except that the term—

(A) does not include the Department of Defense; and

(B) includes the General Services Administration, with respect to the administration of a facility described in paragraph (4)(B).

(4) EXECUTIVE FACILITY.—The term ''executive facility''—

(A) means a facility that is owned or leased by an Executive agency; and

(B) includes a facility that is owned or leased by the General Services Administration on behalf of a judicial office.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an Executive agency, a judicial office, or a legislative office.

(6) JUDICIAL FACILITY.—The term ''judicial facility'' means a facility that is owned or leased by a judicial office (other than a facility that is also a facility described in paragraph (4)(B)).

(7) JUDICIAL OFFICE.—The term ''judicial office'' means an entity of the judicial branch of the Federal Government.

(8) LEGISLATIVE FACILITY.—The term ''legislative facility'' means a facility that is owned or leased by a legislative office.

(9) LEGISLATIVE OFFICE.—The term ''legislative office'' means an entity of the legislative branch of the Federal Government.

(b) EXECUTIVE BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS.—

(A) IN GENERAL.—Any entity sponsoring a child care center in an executive facility shall—

(i) obtain the appropriate State and local licenses for the center; and

(ii) in a location where the State or locality does not license executive facilities, comply with the appropriate State and local licensing requirements related to the provision of child care.

(B) COMPLIANCE.—Not later than 6 months after the date of enactment of this Act—

(i) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with subparagraph (A); and

(ii) any contract or licensing agreement used by an Executive agency for the operation of such a child care center shall include a condition that the child care be provided by an entity that complies with the appropriate State and local licensing requirements related to the provision of child care.

(2) HEALTH, SAFETY, AND FACILITY STANDARDS.—The Administrator shall by regulation establish standards relating to health, safety, facilities, facility design, and other aspects of child care that the Administrator determines to be appropriate for child care centers in executive facilities, and require child care centers, and entities sponsoring child care centers, in executive facilities to comply with the standards.

(3) ACCREDITATION STANDARDS.—

(A) IN GENERAL.—The Administrator shall issue regulations requiring, to the maximum extent possible, any entity sponsoring an eligible child care center (as defined by the Administrator) in an executive facility to comply with child care center accreditation standards issued by a nationally recognized accreditation organization approved by the Administrator.

(B) COMPLIANCE.—The regulations shall require that, not later than 5 years after the date of enactment of this Act—

(i) the entity shall comply, or make substantial progress (as determined by the Administrator) toward complying, with the standards; and

(ii) any contract or licensing agreement used by an Executive agency for the operation of such a child care center shall include a condition that the child care be provided by an entity that complies with the standards.

(C) CONTENTS.—The standards shall base accreditation on—

(i) an accreditation instrument described in section 2(2)(B);

(ii) outside monitoring described in section 2(2)(B), by—

(I) the Administrator; or

(II) a child care credentialing or accreditation entity, or other entity, with which the Administrator enters into a contract to provide such monitoring; and

(iii) the criteria described in section 2(2)(B).

(4) EVALUATION AND COMPLIANCE.—

(A) IN GENERAL.—The Administrator shall evaluate the compliance, with the requirements of paragraph (1) and the regulations issued pursuant to paragraphs (2) and (3), of child care centers, and entities sponsoring child care centers, in executive facilities. The Administrator may conduct the evaluation of such a child care center or entity directly, or through an agreement with another Federal agency or private entity, other than the Federal agency for which the child care center is providing services. If the Administrator determines, on the basis of such an evaluation, that the child care center or entity is not in compliance with the requirements, the Administrator shall notify the Executive agency.

(B) EFFECT OF NONCOMPLIANCE.—On receipt of the notification of noncompliance issued by the Administrator, the head of the Executive agency shall—

(i) if the entity operating the child care center is the agency—

(I) within 2 business days after the date of receipt of the notification correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm;

(II) develop and provide to the Administrator a plan to correct any other deficiencies in the operation of the center and bring the center and entity into compliance with the requirements not later than 4 months after the date of receipt of the notification;

(III) provide the parents of the children receiving child care services at the center with a notification detailing the deficiencies described in subclauses (I) and (II) and actions that will be taken to correct the deficiencies;

(IV) bring the center and entity into compliance with the requirements and certify to the Administrator that the center and entity are in compliance, based on an on-site evaluation of the center conducted by an independent entity with expertise in child care health and safety; and

(V) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the center until such deficiencies are corrected and notify the Administrator of such closure; and

(ii) if the entity operating the child care center is a contractor or licensee of the Executive agency—

(I) require the contractor or licensee within 2 business days after the date of receipt of the notification, to correct any deficiencies that are determined by the Administrator to be life threatening or to present a risk of serious bodily harm:

(II) require the contractor or licensee to develop and provide to the head of the agency a plan to correct any other deficiencies in the operation of the center and bring the center and entity into compliance with the requirements not later than 4 months after the date of receipt of the notification;

(III) require the contractor or licensee to provide the parents of the children receiving child care services at the center with a notification detailing the deficiencies described in subclauses (I) and (II) and actions that will be taken to correct the deficiencies;

(IV) require the contractor or licensee to bring the center and entity into compliance with the requirements and certify to the head of the agency that the center and entity are in compliance, based on an on-site evaluation of the center conducted by an independent entity with expertise in child care health and safety; and

(V) in the event that deficiencies determined by the Administrator to be life threatening or to present a risk of serious bodily harm cannot be corrected within 2 business days after the date of receipt of the notification, close the center until such deficiencies are corrected and notify the Administrator of such closure, which closure shall be grounds for the immediate termination or suspension of the contract or license of the contractor or licensee.

(C) COST REIMBURSEMENT.—The Executive agency shall reimburse the Administrator for the costs of carrying out subparagraph (A) for child care centers located in an executive facility other than an executive facility of the General Services Administration. If an entity is sponsoring a child care center for 2 or more Executive agencies, the Administrator shall allocate the costs of providing such reimbursement with respect to the entity among the agencies in a fair and equitable manner, based on the extent to which each agency is eligible to place children in the center.

(c) LEGISLATIVE BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS, HEALTH, SAFETY, AND FACILITY STANDARDS, AND ACCREDITATION STANDARDS.—The Architect of the Capitol shall issue regulations, approved by the Senate Committee on Rules and Administration and the House Oversight Committee, for child care centers, and entities sponsoring child care centers, in legislative facilities, which shall be no less stringent in content and effect than the requirements of subsection (b)(1) and the regulations issued by the Administrator under paragraphs (2) and (3) of subsection (b), except to the extent that the Architect, with the consent and approval of the Senate Committee on Rules and Administration and the House Oversight Committee, may determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the requirements and standards described in paragraphs (1), (2), and (3) of subsection (b) for child care centers, and entities sponsoring child care centers, in legislative facilities.

(2) EVALUATION AND COMPLIANCE.—

(A) ARCHITECT OF THE CAPITOL.—The Architect of the Capitol shall have the same authorities and duties with respect to the evaluation of, compliance of, and cost reimbursement for child care centers, and entities sponsoring child care centers, in legislative facilities as the Administrator has under subsection (b)(4) with respect to the evaluation of, compliance of, and cost reimbursement for such centers and entities sponsoring such centers, in executive facilities.

(B) HEAD OF A LEGISLATIVE OFFICE.—The head of a legislative office shall have the same authorities and duties with respect to the compliance of and cost reimbursement for child care centers, and entities sponsoring child care centers, in legislative facilities as the head of an Executive agency has under subsection (b)(4) with respect to the compliance of and cost reimbursement for such centers and entities sponsoring such centers, in executive facilities.

(d) JUDICIAL BRANCH STANDARDS AND COMPLIANCE.—

(1) STATE AND LOCAL LICENSING REQUIREMENTS, HEALTH, SAFETY, AND FACILITY STANDARDS, AND ACCREDITATION STANDARDS.—The Director of the Administrative Office of the United States Courts shall issue regulations for child care centers, and entities sponsoring child care centers, in judicial facilities, which shall be no less stringent in content and effect than the requirements of subsection (b)(1) and the regulations issued by the Administrator under paragraphs (2) and (3) of subsection (b), except to the extent that the Director may determine, for good cause shown and stated together with the regulations, that a modification of such regulations would be more effective for the implementation of the requirements and standards described in paragraphs (1), (2), and (3) of subsection (b) for child care centers, and entities sponsoring child care centers, in judicial facilities.

(2) EVALUATION AND COMPLIANCE.—

(A) DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts shall have the same authorities and duties with respect to the evaluation of, compliance of, and cost reimbursement for child care centers, and entities sponsoring child care centers, in judicial facilities as the Administrator has under subsection (b)(4) with respect to the evaluation of, compliance of, and cost reimbursement for such centers and entities sponsoring such centers, in executive facilities.

(B) HEAD OF A JUDICIAL OFFICE.—The head of a judicial office shall have the same authorities and duties with respect to the compliance of and cost reimbursement for child care centers, and entities sponsoring child care centers, in judicial facilities as the head of an Executive agency has under subsection (b)(4) with respect to the compliance of and cost reimbursement for such centers and entities sponsoring such centers, in executive facilities.

(e) APPLICATION.—Notwithstanding any other provision of this section, if 8 or more child care centers are sponsored in facilities owned or leased by an Executive agency, the Administrator shall delegate to the head of the agency the evaluation and compliance responsibilities assigned to the Administrator under subsection (b)(4)(A).

(f) TECHNICAL ASSISTANCE, STUDIES, AND REVIEWS.—The Administrator may provide technical assistance, and conduct and provide the results of studies and reviews, for Executive agencies, and entities sponsoring child care centers in executive facilities, on a reimbursable basis, in order to assist the entities in complying with this section. The Architect of the Capitol and the Director of the Administrative Office of the United States Courts may provide technical assistance, and conduct and provide the results of studies and reviews, or request that the Administrator provide technical assistance, and conduct and provide the results of studies and reviews, for legislative offices and judicial offices, respectively, and entities operating child care centers in legislative facilities and judicial facilities, respectively, on a reimbursable basis, in order to assist the entities in complying with this section.

(g) COUNCIL.—The Administrator shall establish an interagency council, comprised of all Executive agencies described in subsection (e), a representative of the Office of Architect of the Capitol, and a representative of the Administrative Office of the United States Courts, to facilitate cooperation and sharing of best practices, and to develop and coordinate policy, regarding the provision of child care in the Federal Government.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $900,000 for fiscal year 1998 and such sums as may be necessary for each subsequent fiscal year.

By Mr. KENNEDY (for himself, Mr. LAUTENBERG, Mr. DURBIN, Mr. REED, and Mr. KERRY):

S. 1492. A bill to amend the Public Health Act and the Federal Food, Drug and Cosmetic Act to prevent the use of tobacco products by minors, to reduce the level of tobacco addiction, to compensate Federal and State Governments for a portion of the health costs of tobacco-related illnesses, to enhance the national investment in biomedical and basic scientific research, and to expand programs to address the needs of children, and for other purposes; to the Committee on Labor and Human Resources.

THE HEALTHY AND SMOKEFREE CHILDREN ACT

Mr. KENNEDY. Mr. President, today, I am joining Senators LAUTENBERG, DURBIN, REED, and KERRY to introduce the Healthy and Smokefree Children Act, which is a comprehensive tobacco control initiative. Congress has an historic opportunity in the next session to protect current and future generations from nicotine addiction and early death caused by tobacco.

We know the enormous adverse health consequences of youth smoking. Each day, three thousand children begin smoking. A thousand of them will die prematurely from tobacco-induced illnesses. Ninety percent of current adult smokers began to smoke before they reached the age of 18.

Our primary goal is to reduce youth smoking and help children. Our legislation will raise the price of cigarettes by $1.50 a pack over three years. A substantial portion of the revenues raised by the increase will be used to fund major new initiatives in biomedical research, child health, and child development.

The legislation will affirm the authority of the Food and Drug Administration to regulate tobacco products. It also provides for strongly worded warning labels on packs of cigarettes, for a large-scale anti-tobacco advertising campaign, new restrictions on youth access to tobacco products, new protections against secondhand smoke, and transitional assistance to farmers.

Public health experts tell us that the most effective way to reduce youth smoking is by a significant increase in the price of cigarettes. Teenagers have less money to spend on tobacco products than adults, and those who are not yet addicted will be less likely to spend their dollars on smoking. In fact, price increases are three times more likely to deter youth from smoking than adults.

The 65 cent increase in the Attorneys' General settlement is not enough to do the job. If the national goal is to dramatically reduce teenage smoking, a price increase of at least $1.50 a pack will be needed. Even with a price increase of that magnitude, cigarettes in America will still cost less than the current price in many European countries.

It would be irresponsible to wait another decade while we test the impact of lesser measures on youth smoking. Too many children are becoming addicted to tobacco each day. The most effective way to reduce youth smoking is a substantial price increase, and we should do it now.

The $1.50 increase will enable us to provide approximately $20 billion per year to be divided equally between medical research and child development investments. Under our proposal, half of these additional funds will be used for an unprecedented expansion of biomedial research to solve the scientific mysteries of the most severe diseases and medical conditions. We stand on the threshold of extraordinary medical breakthroughts against cancer, heart disease, Alzheimer's Disease, AIDS, diabetes, mental illness, and many other conditions. The benefits of greater research will save millions of lives and improve the quality of life for countless more.

The other half of the new funds will be directed to child health and child development. The brain research conducted in recent years has demonstrated the critical importance of the first three years of life to a child's learning potential. Additional resources will enable us to build on that foundation of knowledge, and implement it in ways that will enrich the lives of the next generation of children. By expanding Head Start to reach the large number of eligible pre-school children who are not now being served, and by improving the quality and availability of child care for working families, we can give far more children a better foundation on which to build their lives.

In addition, under our proposal, the key public health provisions in the Attorneys General agreement will be implemented, and smokers seeking to stop will be able to obtain help in overcoming their addiction. States will receive compensation from the tobacco industry for their Medicaid costs attributable to smoking, and will not have to reimburse the federal government for the federal share of the Medicaid costs recovered. These funds will be available to the states to address the unmet needs of children.

A strong FDA with broad authority to regulate tobacco is also essential. Our legislation affirms FDA's finding that nicotine is an addictive drug and that cigarettes are a drug delivery device. The scope of regulation will include manufacturing, marketing, advertising, and distributing tobacco products. The FDA will be freed from the numerous procedural roadblocks which the tobacco industry has placed in its path.

This legislation will substantially reduce smoking in America, enhance medical research, and help millions of children reach their full potential. Congress has a unique opportunity. We own it to America's children and America's future to act now.

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. 1492

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Healthy and Smoke Free Children Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
TITLE I—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO TOBACCO
Sec. 101. Public health and education programs.
"TITLE XXVIII—PUBLIC HEALTH AND EDUCATION PROGRAMS AND TOBACCO CONTROL
"Sec. 2801. Definitions.
"Subtitle A—Public Health and Education Programs
"Sec. 2811. Payments to States.
"Sec. 2812. Public health programs.
"Sec. 2813. Biomedical research and child development investments.
"Sec. 2814. Tobacco victims compensation fund.
"Sec. 2815. Tobacco community transition assistance.
"Subtitle B—National Health Initiatives
"PART 1—NATIONAL BASIC AND CHILD DEVELOPMENT RESEARCH
"Sec. 2821. National Biomedical, Basic and Child Development Research Board.
"Sec. 2822. Grants for biomedical and basic research.
"Sec. 2823. Investments in healthy child development and research -projects and training.
"PART 2—PUBLIC HEALTH PROGRAMS
"Sec. 2825. Research, counter-advertising, and CDC programs.
"Sec. 2826. National tobacco usage reduction and education block grant program.
"Subtitle C—Reduction in Underage Tobacco Use
"Sec. 2831. Purpose.
"Sec. 2832. Child tobacco use surveys.
"Sec. 2833. Reduction in underage tobacco product usage.
"Sec. 2834. Noncompliance.
"Sec. 2835. Use of amounts.
"Sec. 2836. Miscellaneous provisions.
"Subtitle D—Miscellaneous Provisions
"Sec. 2841. Whistleblower protections.
"Sec. 2842. National Tobacco Document Depository.
"Sec. 2843. Tobacco Oversight and Compliance Board.
"Sec. 2844. Preservation of State and local authority.
"Sec. 2845. Regulations.
TITLE II—FDA JURISDICTION OVER TOBACCO PRODUCTS
Subtitle A—Amendments to the Federal Food, Drug and Cosmetic Act
Sec. 201. Reference.
Sec. 202. Statement of general authority.
Sec. 203. Treatment of tobacco products as drugs and devices.
Sec. 204. General health and safety regulation of tobacco products.
"CHAPTER IX—TOBACCO PRODUCTS
"Sec. 901. Definitions.
"Sec. 902. Purpose.
"Sec. 903. Promulgation of regulations.
"Sec. 904. Minimum requirements.
"Sec. 905. Scientific Advisory Committee.
"Sec. 906. Requirements relating to nicotine and other constituents.
"Sec. 907. Reduced risk products.
"Sec. 908. Good manufacturing practice standards.
"Sec. 909. Disclosure and reporting of non-tobacco ingredients and constituents.
"Sec. 910. Tobacco product warnings, labeling and packaging.
"Sec. 911. Statement of intended use.
"Sec. 912. Miscellaneous provisions.
TITLE III—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE
Sec. 301. Standards to reduce involuntary exposure to tobacco smoke.
TITLE IV—TOBACCO MARKET TRANSITION ASSISTANCE
Sec. 401. Definitions.
Subtitle A—Tobacco Quota Buyout Contracts and Producer Transition Payments
Sec. 411. Quota owner buyout contracts.
Sec. 412. Producer transition payments for quota tobacco.
Sec. 413. Producer transition payments for non-quota tobacco.
Sec. 414. Elements of contracts.
Subtitle B—No Net Cost Tobacco Program
Sec. 421. Budget deficit assessment.
Subtitle C—Tobacco Community Empowerment Block Grants
Sec. 431. Tobacco community empowerment block grants.
TITLE V—MISCELLANEOUS PROVISIONS
Sec. 501. Sense of the senate.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Tobacco products are the foremost preventable health problem facing America today. More than 400,000 individuals die each year as a result of tobacco induced illnesses and conditions.

(2) Nicotine that is contained in tobacco products is extremely addictive.

(3) The tobacco industry has historically targeted tobacco product marketing and promotional efforts towards minors in order to entrap them into a lifetime of smoking.

(4) Over 90 percent of individuals who smoke began smoking regularly while they were still minors.

(5) Approximately 3000 minors begin smoking each day. 1000 of these minors will die prematurely from a tobacco induced illness or medical condition.

(6) Tobacco induced illnesses and medical conditions resulting from tobacco use cost the United States over $100,000,000,000 each year.

(7) Each year the Federal Government incurs costs in excess of $20,000,000,000 for the medical treatment of individuals suffering from tobacco induced illnesses and conditions.

(b) PURPOSES.—It is the purpose of this Act to—

(1) substantially reduce youth smoking;

(2) assist individuals who are currently addicted to tobacco products in overcoming that addiction;

(3) educate the public concerning the health dangers inherent in the use of tobacco products;

(4) fund medical research; and

(5) provide for the healthy development of young children and to enhance their learning capacity and improve the quality of their care.

TITLE I—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO TOBACCO

SEC. 101. PUBLIC HEALTH AND EDUCATION PROGRAMS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new title:

"TITLE XXVIII—PUBLIC HEALTH AND EDUCATION PROGRAMS AND TOBACCO CONTROL

"SEC. 2801. DEFINITIONS.

"In this title:

"(1) BRAND.—The term 'brand' means a variety of a tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging.

"(2) CIGAR.—The term 'cigar' means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette or cigarillo within the meaning of paragraph (3) or (4)).

"(3) CIGARETTE.—The term 'cigarette' means any product which contains nicotine, is intended to be burned under ordinary conditions of use, and consists of—

"(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

"(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

"(4) CIGARILLOS.—The term 'cigarillos' means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of paragraph (3)) and as to which 1,000 units weigh not more than 3 pounds.

"(5) CIGARETTE TOBACCO.—The term 'cigarette tobacco' means any product that consists of loose tobacco that contains or delivers nicotine and is intended for use by persons in a cigarette. Unless otherwise stated, the requirements of this title pertaining to cigarettes shall also apply to cigarette tobacco.

"(6) COMMERCE.—The term 'commerce' means—

"(A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands or any territory or possession of the United States;

"(B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands or any territory or possession of the United States; or

"(C) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, or any territory or possession of the United States.

"(7) COMMISSIONER.—The term 'Commissioner' means the Commissioner of Food and Drugs.

"(8) DISTRIBUTOR.—The term 'distributor' means any person who furthers the distribution of tobacco products, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Such term shall not include common carriers.

"(9) LITTLE CIGAR.—The term 'little cigar' means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subsection (1)) and as to which 1,000 units weigh not more than 3 pounds.

"(10) MANUFACTURER.—The term 'manufacturer' means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a finished tobacco product.

"(11) NICOTINE.—The term 'nicotine' means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl)pyridine or $C_{10}H_{14}N_2$, including any salt or complex of nicotine.

"(12) PACKAGE.—The term 'package' means a pack, box, carton, or container of any kind in which tobacco products are offered for sale, sold, or otherwise distributed to consumers.

"(13) PERSON.—The term 'person' means an individual, partnership, corporation, or any other business or legal entity.

"(14) PIPE TOBACCO.—The term 'pipe tobacco' means any loose tobacco that, because of its appearance, type, packaging, or labeling, is likely to be offered to, or purchased by, consumers as a tobacco product to be smoked in a pipe.

"(15) POINT OF SALE.—The term 'point of sale' means any location at which an individual can purchase or otherwise obtain tobacco products for personal consumption.

"(16) RETAILER.—The term 'retailer' means any person who sells tobacco products to individuals for personal consumption, or who operates a facility where vending machines or self-service displays are permitted under this title.

"(17) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco'' has the meaning given such term by section 5702(p) of the Internal Revenue Code of 1986.

"(18) SALE.—The term 'sale' includes the selling, providing samples of, or otherwise making tobacco products available for personal consumption in any place within the scope of this title.

"(19) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(20) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any product that consists of cut, ground, powdered, or leaf tobacco that contains nicotine and that is intended to be placed in the oral or nasal cavity.

"(21) STATE.—The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States. Such term includes any political division of any State.

"(22) TOBACCO.—The term 'tobacco' means tobacco in its unmanufactured form.

"(22) TOBACCO PRODUCT.—The term 'tobacco product' means cigarettes, cigarillos, cigarette tobacco, little cigars, pipe tobacco, and smokeless tobacco, and roll-your-own tobacco.

"Subtitle A—Public Health and Education Programs

"SEC. 2811. PAYMENTS TO STATES.

"(a) FUNDS.—

"(1) IN GENERAL.—Subject to subsection (d), there are hereby made available to carry out this section for each fiscal year an amount equal to the amount necessary to reimburse States as provided for in subsection (b).

"(2) FISCAL YEAR LIMITATION.—Amounts made available for a fiscal year under paragraph (1) shall be equal to—

"(A) 43 percent of the net increase in revenues received in the Treasury for such fiscal year attributable to any amendments made to chapter 52 of the Internal Revenue Code of 1986 in the fiscal year in which this title is enacted, as estimated by the Secretary; less

"(B) amounts made available for such fiscal year under sections 2812 and 2814.

"(b) REIMBURSEMENT.—

"(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (a) in each fiscal year to provide funds to each State to reimburse such State for amounts expended by the State for the treatment of individuals with tobacco-related illnesses or conditions, and to permit States to utilize the Federal share of such expended amounts to provide services for children.

"(2) AMOUNT.—The amount for which a State is eligible for under paragraph (1) shall be based on the ratio of the expenditures of the State under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for fiscal year 1996 to the expenditures by all States under such title for such fiscal year.

"(3) ADJUSTMENT.—With respect to a fiscal year in which the amount determined under subsection (a)(1) exceeds the limitation under subsection (a)(2), the Secretary shall make pro rata reductions in the amounts provided to States under this subsection.

"(c) USE OF FUNDS.—

"(1) DETERMINATION.—With respect to each State, the Secretary shall determine the proportion of the reimbursement under subsection (b) for each fiscal year that is equal to the amount that has been paid to the State as the Federal medical assistance percentage (as defined in section 1905(b)) of the Social Security Act (42 U.S.C. 1396d(b)) expenditures by the State for the preceding fiscal year.

"(2) REQUIRED USE.—With respect to the amount determined under paragraph (1) for a State for a fiscal year, the Secretary shall not treat such amount as an overpayment under any joint Federal-State health program if the State certifies to the Secretary that such amount will be used by the State to serve the needs of children in the State under 1 or more of the following programs:

"(A) An Even Start program under section of the Head Start Act (42 U.S.C. 9801 et seq.).

"(B) The Head Start program under the Head Start Act (42 U.S.C. 9801 et seq.).

"(C) A child care program under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 658A et seq.).

"(D) The Individuals with Disabilities Education Act.

"(E) The child care food program and start-up and expansion funds for school break programs and summer food programs under section 17 of the National School Lunch Act (42 U.S.C. 1766).

"(F) The special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(G) The Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.).

"(H) The State Children's Health Insurance Program of the State under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

"(I) The family preservation and support services program under section 430B of the Social Security Act.

"(J) State initiated programs that are designed to serve the health and developmental needs of children and are approved by the Secretary.

"(3) COORDINATION.—A State may use not to exceed 20 percent of the amount determined under paragraph (1) for the State for a fiscal year to—

"(A) improve linkages and coordination among programs serving children and families, including the provision of funds to outpost outreach workers into Federally funded early childhood programs to ensure effective enrollment in child health initiatives referred to in paragraph (2)(H);

"(B) fund local collaboratives which shall be required to use such funds on needs assessments, planning, and investments to maximize efforts to improve child development; and

"(C) fund innovative demonstrations that address the outstanding needs of children and families as assessed by State and local entities.

"(4) STATE PLAN.—To be eligible to receive funds under this subsection a State shall prepare and submit to the Secretary a State plan, at such time, in such manner, and containing such information as the Secretary may require, including a description of the manner in which the State will use amounts provided under this subsection. Such plan shall demonstrate, based on standards established by the Secretary, that the State will comply with paragraph (6).

"(5) APPLICATION OF REQUIREMENTS.—The requirements of the respective provisions of law described in paragraph (2) shall apply to any funds made available under this subsection through State programs under any such provision of law to the same extent that such requirements would otherwise apply to such programs under such provisions of law.

"(6) SUPPLEMENT NOT SUPPLANT.—Amounts provided to a State under this subsection shall be used to supplement and not supplant other Federal, State and local funds provided for programs that serve the health and developmental needs of children. Amounts provided to the State under any of the provisions of law referred to in paragraph (2) shall not be reduced solely as a result of the availability of funds under this section.

"(7) OVERPAYMENTS.—Any amount of the reimbursement of a State under paragraph (1) to which paragraph (2) applies that is not used in accordance with this subsection shall be treated by the Secretary as an overpayment under section 1903 of the Social Security Act (42 U.S.C. 1396b). Any such overpayments may be allotted among other States under this subsection in proportion to the amount that the State originally received under this section.

"SEC. 2812. PUBLIC HEALTH PROGRAMS.

"(a) FUNDING.—There are hereby made available to carry out this section—

"(1) for fiscal year 1998, $2,100,000,000;

"(2) for fiscal year 1999, $2,175,000,000 increased by an amount equal to the increase in the Consumer Price Index for the previous fiscal year for all urban consumers (all items; U.S. city average);

"(3) for fiscal year 2000, $2,200,000,000 increased by an amount equal to the increase in the Consumer Price Index for the 2 previous fiscal years for all urban consumers (all items; U.S. city average);

"(4) for fiscal year 2001, $2,325,000,000 increased by an amount equal to the increase in the Consumer Price Index for the 3 previous fiscal years for all urban consumers (all items; U.S. city average); and

"(5) for fiscal year 2002 and subsequent fiscal years, the amount made available for fiscal year 2001 increased by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average).

"(b) USE OF FUNDS.—Amounts made available for a fiscal year under subsection (a) shall be distributed in the following manner:

"(1) USE REDUCTION AND ADDICTION PREVENTION RESEARCH.—

"(A) IN GENERAL.—The amount described in subparagraph (B) shall be used by Secretary to carry out Federal tobacco use reduction and addiction prevention research under section 2825(a).

"(B) AMOUNT.—The amount described in this subparagraph is—

"(i) for fiscal year 1998, $100,000,000; and

"(ii) for fiscal year 1999 and each subsequent fiscal year, the amount described in clause (i), increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average).

"(2) COUNTER-ADVERTISING.—

"(A) IN GENERAL.—The amount described in subparagraph (B) shall be used by Secretary to carry out the Federal tobacco product counter-advertising campaign under section 2825(b).

"(B) AMOUNT.—The amount described in this subparagraph is—

"(i) for fiscal year 1998, $500,000,000; and

"(ii) for fiscal year 1999 and each subsequent fiscal year, the amount described in clause (i), increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average).

"(3) CENTERS FOR DISEASE CONTROL AND PREVENTION PROGRAMS.—

"(A) IN GENERAL.—The amount described in subparagraph (B) shall be used by Secretary, acting through the Centers for Disease Control and Prevention, to carry programs to discourage the initiation of tobacco use, reduce the incidence of tobacco use among current users, and for other activities designed to reduce the risk of dependence and injury from tobacco products under section 2825(c).

"(B) AMOUNT.—The amount described in this subparagraph is—

"(i) for fiscal year 1998, $60,000,000;

"(ii) for each of the fiscal years 1998 and 2000, $60,000,000, increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average);

"(iii) for fiscal year 2001, $100,000,000, increased for such fiscal year by an amount equal to the increase in the Consumer Price Index for fiscal years 1998 through 2000 for all urban consumers (all items; U.S. city average); and

"(iv) for fiscal year 2002 and subsequent fiscal years, the amount described in clause (iii), increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average).

"(4) FOOD AND DRUG ADMINISTRATION.—

"(A) IN GENERAL.—The amount described in subparagraph (B) shall be used by Secretary to assist in defraying the costs associated with the activities of the Food and Drug Administration relating to tobacco.

"(B) AMOUNT.—The amount described in this subparagraph is—

"(i) for fiscal year 1998, $300,000,000; and

"(ii) for fiscal year 1999 and each subsequent fiscal year, the amount described in clause (i), increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average).

"(5) STATE BLOCK GRANTS.—

"(A) IN GENERAL.—The amount described in subparagraph (B) shall be used by Secretary to make block grants to States under the National Tobacco Usage Reduction and Education Block Grant Program under section 2826.

"(B) AMOUNT.—The amount described in this subparagraph is—

"(i) for fiscal year 1998, $1,144,000,000;

"(ii) for fiscal year 1999, $1,215,000,000, increased for such fiscal year by an amount equal to the increase in the Consumer Price Index for the previous fiscal year for all urban consumers (all items; U.S. city average);

"(iii) for fiscal year 2000, $1,240,000,000, increased for such fiscal year by an amount equal to the increase in the Consumer Price Index for fiscal years 1998 through 2000 for all urban consumers (all items; U.S. city average);

"(iv) for fiscal year 2001, $1,325,000,000, increased for such fiscal year by an amount equal to the increase in the Consumer Price Index for fiscal years 1998 through 2000 for all urban consumers (all items; U.S. city average);

"(v) for each of the fiscal years 2002 through 2008, $1,825,000,000, increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for the period encompassing the fiscal years from 1998 to the fiscal year prior to the fiscal year involved for all urban consumers (all items; U.S. city average); and

"(vi) for fiscal year 2009 and subsequent fiscal years, $1,750,000,000, increased for each such fiscal year by an amount equal to the increase in the Consumer Price Index for fiscal years 1998 through the fiscal year previous to the fiscal year for which the determination is being made for all urban consumers (all items; U.S. city average).

"SEC. 2813. BIOMEDICAL RESEARCH AND CHILD DEVELOPMENT INVESTMENTS.

"(a) FUNDING.—There are hereby made available to carry out this section for each fiscal year an amount equal to 57 percent of the net increase in revenues received in the Treasury for such fiscal year attributable to any amendments made to chapter 52 of the Internal Revenue Code of 1986 in the fiscal year in which this title is enacted, as estimated by the Secretary.

"(b) USE OF FUNDS.—Amounts made available for a fiscal year under subsection (a)

shall be used to carry out national biomedical and basic scientific research activities and child development and research activities under part 1 of subtitle C.

"SEC. 2814. TOBACCO VICTIMS COMPENSATION FUND.

"(a) FUNDING.—There are hereby made available to carry out this section for each fiscal year an amount equal to 14.2 percent of the net increase in revenues received in the Treasury for such fiscal year attributable to any amendments made to chapter 52 of the Internal Revenue Code of 1986 in the fiscal year in which this title is enacted, as estimated by the Secretary.

"(b) USE OF FUNDS.—Amounts made available for a fiscal year under subsection (a) shall be used to provide assistance and compensation to individuals suffering from tobacco-related illnesses and conditions, under a plan to be developed by the Secretary, not later than 1 year after the date of enactment of this Act, and submitted to Congress for approval.

"SEC. 2815. TOBACCO COMMUNITY TRANSITION ASSISTANCE.

"(a) FUNDING.—There are hereby made available to carry out this section—

"(1) for buyouts of quotas under section 411—

"(A) $3,100,000,000 for each of the fiscal years 1998 and 1999; and

"(B) $3,000,000,000 for fiscal 2000; and

"(2) for block grants under section 431—

"(A) $500,000,000 for each of the fiscal years 1998 and 1999;

"(B) $800,000,000 for each of the fiscal years 2000 through 2002; and

"(C) $400,000,000 for fiscal year 2003.

"(b) USE OF FUNDS.—Amounts made available for a fiscal year under subsection (a) shall remain available until expended (except that with respect to amounts under subsection (a)(1), such amounts shall only be available until September 30, 2001) and shall be used to provide tobacco transition assistance under title IV of the Healthy and Smoke Free Children Act.

"Subtitle B—National Health Initiatives

"PART 1—NATIONAL BASIC AND CHILD DEVELOPMENT RESEARCH

"SEC. 2821. NATIONAL BIOMEDICAL, BASIC AND CHILD DEVELOPMENT RESEARCH BOARD.

"(a) ESTABLISHMENT.—There is established a Federal board to be known as the 'National Biomedical and Basic Scientific Research Board' (referred to in this subpart as the 'Board').

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The board shall be composed of—

"(A) 9 voting members to be appointed by the President from among individuals with expertise in biomedical research, basic research, child development, and medicine; and

"(B) 3 ex officio (nonvoting) members of which—

"(i) 1 shall be the Secretary;

"(ii) 1 shall be the Secretary of Education; and

"(iii) 1 shall be the Assistant to the President for Science and Technology.

"(2) TERMS.—A member of the Board under paragraph (1)(A) shall be appointed for a term of 6 years, except that of the members first appointed—

"(A) 3 members shall be appointed for terms of 6 years;

"(B) 3 members shall be appointed for terms of 4 years; and

"(C) 3 members shall be appointed for terms of 2 years.

"(3) VACANCIES.—

"(A) IN GENERAL.—A vacancy on the Board shall be filled in the same manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

"(B) FILLING UNEXPIRED TERM.—An individual appointed to fill a vacancy on the Board shall be appointed for the unexpired term of the member replaced.

"(C) EXPIRATION OF TERMS.—The term of any member of the Board shall not expire before the date on which the member's successor takes office.

"(c) CHAIRPERSON.—The President shall designate a member of the Board appointed under subsection (b)(1)(A) as the Chairperson of the Board.

"(d) MEETINGS AND QUORUM.—

"(1) IN GENERAL.—The Commission shall meet at the call of the Chairperson.

"(2) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall hold its first meeting.

"(3) QUORUM.—A majority of the members of the Board appointed under subsection (b)(1)(A) shall constitute a quorum, but a lesser number of members may hold hearings.

"(e) PERSONNEL MATTERS.—

"(1) COMPENSATION.—Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. All members of the Board who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(2) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(3) STAFF.—

"(A) IN GENERAL.—The Chairperson of the Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Board to perform its duties. The employment of an executive director shall be subject to confirmation by the Board.

"(B) COMPENSATION.—The Chairperson of the Board may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

"(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

"(f) POWERS.—The Board shall award grants to, and enter into contracts with eligible entities under section 2822 for the expansion of basic and biomedical research and to provide graduate training with respect to such research.

"(g) DELEGATION.—The Board may delegate all or a portion of grant making authority under subsection (f) to the Secretary, the Secretary of Education, the Director of the National Science Foundation, or the head of any other Federal agency determined appropriate by the Board.

"(h) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—With respect to a fiscal year, no funds shall be made available under this part for such fiscal year until the Secretary certifies that the amounts appropriated for each of the entities or activities described in subparagraphs (A) and (B) of section 2822(a)(1) or subparagraphs (A), (B) and (F) of section 2823(a)(1) for such fiscal year has increased as compared to the amounts appropriated for the previous fiscal year—

"(A) by not less than the percentage increase in the consumer price index, as determined by the Secretary of Labor; or

"(B) by an amount equal to the percentage increase in the level of overall discretionary spending for such fiscal year as compared to the previous fiscal year;

whichever is greater.

"(2) APPLICATION TO CHILD DEVELOPMENT ACTIVITIES.—With respect to a fiscal year, no funds shall be made available under this part for such fiscal year until the Secretary certifies that the amounts appropriated for each of the entities or activities described in section 2823(a)(1)(F) for such fiscal has increased as compared to the amounts appropriated for the previous fiscal year—

"(A) by not less than the percentage increase in the consumer price index, as determined by the Secretary of Labor; or

"(B) by an amount equal to the percentage increase in the level of overall discretionary spending for such fiscal year as compared to the previous fiscal year;

whichever is less.

"(3) SUPPLEMENT NOT SUPPLANT.—Funds made available for use under this part shall be used to supplement and not supplant other funds appropriated to the entities described in section 2822(a) and 2823(a). Amounts appropriated to such entities under other provisions of law shall not be reduced solely as a result of the availability of funds under this section.

"SEC. 2822. GRANTS FOR BIOMEDICAL AND BASIC RESEARCH.

"(a) ELIGIBLE ENTITIES.—To be eligible to receive a grant or contract under section 2821(f) an entity shall be—

"(1) the National Institutes of Health (including a subdivision or grantee of such Institutes);

"(2) the National Science Foundation (including a subdivision or grantee of such Foundation);

"(3) nationally recognized research hospitals;

"(4) universities with recognized programs of basic and biomedical research;

"(5) research institutes with expertise in the conduct of basic or biomedical research;

"(6) cancer research centers that meet the standards of section 414; and

"(7) entities conducting quality basic or biomedical research as determined by the Board.

"(b) GRADUATE TRAINING.—Support may be provided under section 2821(f) for graduate training, including the following:

"(1) Grants for portable fellowships as defined for purposes of the National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.).

"(2) Grants to support an additional year of portable fellowship training to enhance the teaching capabilities of fellows seeking careers in academic teaching settings.

"(3) Programs of student loan forgiveness for students in the sciences and biomedical sciences who pursue careers as teachers of science or biomedical science or researchers in such fields in nonprofit institutions. Loans may be forgiven under this paragraph at the rate of—

"(A) 15 percent per year for the first and second fiscal years after the date of enactment of this title;

"(B) 20 percent per year for the third and fourth fiscal years after the date of enactment of this title; and

"(C) 30 percent per year for the fifth fiscal year after the date of enactment of this title.

"(4) Programs of postdoctoral fellowships for individuals qualifying for such fellowships under the authority of the National Science Foundation of National Institutes of Health.

"(5) Programs of grants to universities and other research facilities to assist in the equipping of laboratories for new researchers of exceptional promise during the first 5 years of post-doctoral research.

"(6) Such other programs of grants and contracts as the Board determines will contribute to increasing the supply of high quality scientific and biomedical researchers.

"(c) FUNDING.—The Board shall use 50 percent of the amount made available for a fiscal year under section 2813 to carry out this subpart in such fiscal year.

"SEC. 2823. INVESTMENTS IN HEALTHY CHILD DEVELOPMENT AND RESEARCH -PROJECTS AND TRAINING.

"(a) CHILDREN'S RESEARCH, TRAINING AND DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall use not to exceed 10 percent of the funds allocated for use under this section to award grants of contracts for the conduct and support of research, training and demonstration projects relating to child health and development.

"(2) ENTITIES ELIGIBLE FOR RESEARCH PROJECTS.—To be eligible to receive a grant or contract under paragraph (1) for the conduct or support of research an entity shall be—

"(A) the National Institutes of Health (including a subdivision or grantee of such Institutes);

"(B) the National Science Foundation (including a subdivision or grantee of the Foundation);

"(C) a nationally recognized research hospital;

"(D) a university with a recognized program of research or training on children's development and health and childhood disabilities; and

"(E) entities conducting child development research and training; and

"(F) a public or private nonprofit organization, agency, or partnership with the capacity to implement research findings on brain development in the early years of life and for the support of continual physical, intellectual, and social development of young children, including infants and toddlers with disabilities.

"(3) TRAINING PROJECTS.—Support may be provided under subparagraphs (D), (E) and (F) of paragraph (1) for training, including programs to support undergraduate and graduate training programs to expand the early childhood development workforce by recruiting; training students for careers in early childhood development and care, which may include grants to institutions, scholarships, and programs of loan work forgiveness; and preservice and inservice training programs to enhance the quality of the existing child care workforce.

"(4) DEMONSTRATION PROJECTS.—Support may be provided under subparagraphs (D), (E) and (F) of paragraph (1) for demonstration projects including public-private partnerships for paid leave to enable mothers with infants to choose to stay at home.

"(5) EVALUATIONS.—Each project under this subsection shall include an evaluation component to assess the effectiveness of the project in achieving its goals.

"(b) CHILD DEVELOPMENT PROJECTS.—

"(1) IN GENERAL.—The Secretary shall use not less than 90 percent of the funds allocated for use under this section as follows:

"(A) INVESTMENTS FOR EARLY CHILDHOOD DEVELOPMENT.—60 percent of such funds will be used for investments in early childhood development as follows:

"(i) 10 percent to expand the Early Head Start program under section 645A of the Head Start Act (42 U.S.C. 9841).

"(ii) 20 percent to the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 658A et seq.) to provide certificates and grants to increase the availability and affordability of quality child care for children of working families from birth through school age, including children with disabilities.

"(iii) 25 percent to expand the Head Start program under the Head Start Act (42 U.S.C. 9801) to increase enrollment and responsiveness of such program.

"(iv) 5 percent to early childhood development programs under part C and section 619 of the Individuals with Disabilities Education Act.

Not less than 30 percent of amounts made available under clause (ii) shall be set-aside for innovative programs for babies and toddlers, including the development of family child care networks, start-up for infant care programs, the training of providers, or the provision of parent education and support.

"(B) IMPROVEMENT OF THE QUALITY OF CHILD CARE.—20 percent to establish a health and safety fund through the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 658A et seq.), 50 percent of which shall be used to provide incentives to reward States that improve the quality of child care programs in the State by adopting the essential components of the child care program of the armed services or the essential components of other proven child care models. Such components include the provision of training linked to increased wages, improved standards and enforcement, lower child to staff ratios, higher rates for accredited programs, and consumer education including resources referral services.

"(C) PROGRAMS TO PROMOTE HEALTHY BEHAVIOR.—20 percent to the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 658A et seq.) to expand the availability and affordability of quality before- and after-school care, and summer and weekend activities for school age (through 15 years of age) children, including children with disabilities, to promote good health and academic achievement and to help in avoiding high risk behaviors. Eligible entities for grants under this clause shall include elementary and secondary schools, community-based organizations, child care centers, family child care homes, youth centers, or partnerships and should be targeted to communities with high rates of poverty or at-risk children.

"(c) SUPPLEMENT NOT SUPPLANT.—Amounts provided to a State under this section shall be used to supplement and not supplant other Federal, State and local funds provided for programs that serve the health and developmental needs of children. Amounts provided to the State under any of the provisions of law referred to in this section shall not be reduced solely as a result of the availability of funds under this section.

"(d) FUNDING.—The Board shall use 50 percent of the amount made available for a fiscal year under section 2813 to carry out this subpart in such fiscal year.

"PART 2—PUBLIC HEALTH PROGRAMS

"SEC. 2825. RESEARCH, COUNTER-ADVERTISING, AND CDC PROGRAMS.

"(a) REDUCTION AND ADDICTION PREVENTION RESEARCH.—The Secretary shall provide for the conduct of research concerning the development of methods, drugs, and devices to discourage individuals from using tobacco products and to assist individuals who use such products in quitting such use.

"(b) COUNTER-ADVERTISING.—The Secretary shall carry out programs to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals and to encourage those who use such products to quit.

"(c) CENTERS FOR DISEASE CONTROL AND PREVENTION PROGRAMS.—The Secretary, acting through the Centers for Disease Control and Prevention, shall carry programs to discourage the initiation of tobacco use, reduce the incidence of tobacco use among current users, and for other activities designed to reduce the risk of dependence and injury from tobacco products.

"(d) FUNDING.—

"(1) RESEARCH.—The Secretary shall use amounts available under section 2812(b)(1) to carry out subsection (a).

"(2) COUNTER-ADVERTISING.—The Secretary shall use amounts available under section 2812(b)(2) to carry out subsection (b).

"(3) CDC PROGRAMS.—The Secretary shall use amounts available under section 2812(b)(3) to carry out subsection (c).

"SEC. 2826. NATIONAL TOBACCO USAGE REDUCTION AND EDUCATION BLOCK GRANT PROGRAM.

"(a) BLOCK GRANTS.—The Secretary shall award block grants to States to enable such States to carry out activities for the purpose of planning, carrying out, and evaluating tobacco use reduction and education activities described in subsection (c).

"(b) APPLICATION.—

"(1) IN GENERAL.—A State that desires to receive a grant under subsection (a) shall prepare and submit to the Secretary an application, at such time, in such manner, and accompanied by such information as the Secretary may require.

"(2) CONTENTS.—An application submitted under paragraph (1) shall—

"(A) describe the activities that will be carried out using assistance under this section; and

"(B) provide such assurances as the Secretary determines to be necessary to carry out this section.

"(c) USE OF FUNDS.—A State shall use amounts received under this section to carry out the following activities:

"(1) TOBACCO USE CESSATION.—

"(A) IN GENERAL.—Activities to assist individuals in quitting the use of cigarettes or other tobacco products.

"(B) MODEL STATE PROGRAM.—The Secretary shall establish a model smoking cessation program that may be used by States in the design of State-based smoking cessation programs. Such model program shall provide for the provision of grants and other assistance by such States to eligible entities and individuals in the State for the establishment or administration of tobacco product use cessation programs that are approved in accordance with subparagraph (D).

"(C) USE OF ASSISTANCE.—Under a State smoking cessation program under this paragraph an entity that receives assistance shall use such amounts to establish or administer tobacco product use cessation programs that are approved in accordance with subparagraph (D).

"(D) APPROVAL OF CESSATION PROGRAM OR DEVICES.—Using the best available scientific information, the Secretary shall promulgate regulations to provide for the approval of tobacco product use cessation programs and devices. Such regulations shall be designed to ensure that tobacco product users, if requested, are provided with reasonable access to safe and effective cessation programs and devices. Such regulations shall ensure that such individuals have access to a broad range of cessation options that are tailored to the needs of the individual tobacco user.

"(2) TOBACCO USAGE REDUCTION AND EDUCATION PROGRAM.—Activities—

"(A) to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals who are under 18 years of age and to encourage those who use such products to quit;

"(B) to carry out informational campaigns that are designed to discourage and de-glamorize the use of tobacco products;

"(C) for tobacco use reduction in elementary and secondary schools; or

"(D) for community-based tobacco control efforts that are designed to encourage community involvement in reducing tobacco product use.

"(3) EVENT TRANSITIONAL SPONSORSHIP PROGRAM.—

"(A) IN GENERAL.—Activities for the transitional sponsorship of certain activities, including grants to—

"(i)(I) pay the costs associated with the transitional sponsorship of an event or activity;

"(II) provide for the transitional sponsorship of an individual or team;

"(III) pay the required entry fees associated with the participation of an individual or team in an event or activity;

"(IV) provide financial or technical support to an individual or team in connection with the participation of that individual or team in an activity described in subparagraph (C)(iii); or

"(V) for any other purposes determined appropriate by the State; and

"(ii) promote images or activities to discourage individuals from using tobacco products or encourage individuals who use such products to quit.

"(B) ELIGIBILITY.—A State program funded under this paragraph shall ensure that to be eligible to receive assistance under this paragraph an entity or individual shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require, including—

"(i) a description of the event, activity, team, or entry for which the grant is to be provided;

"(ii) documentation that the event, activity, team, or entry involved was sponsored or otherwise funded by a tobacco manufacturer or distributor prior to the date of the application; and

"(iii) a certification that the applicant is unable to secure funding for the event, activity, team, or entry involved from sources other than those described in clause (ii).

"(C) PERMISSIBLE SPONSORSHIP ACTIVITIES.—Events, activities, teams, or entries for which a grant may be provided under this paragraph include—

"(i) an athletic, musical, artistic, or other social or cultural event or activity that was sponsored in whole or in part by a tobacco manufacturer or distributor prior to the date of enactment of this title;

"(ii) the participation of a team that was sponsored in whole or in part by a tobacco manufacturer or distributor prior to the date of enactment of this title, in an athletic event or activity; and

"(iii) the payment of a portion or all of the entry fees of, or other financial or technical support provided to, an individual or team by a tobacco manufacturer or distributor prior to the date of enactment of this title, for participation of the individual in an athletic, musical, artistic, or other social or cultural event.

"(d) ALLOCATION OF FUNDS.—A State shall ensure that amounts received under a block grant under subsection (a) are used to carry out each of the activities described in subsection (c).

"(e) FUNDING.—The Secretary shall use amounts available under section 2812(b)(4) to carry out this section.

"Subtitle C—Reduction in Underage Tobacco Use

"SEC. 2831. PURPOSE.

"It is the purpose of this subtitle to encourage the achievement of reductions in the number of underage consumers of tobacco products through the imposition of additional financial deterrents relating to tobacco products if certain underage tobacco-use reduction targets are not met.

"SEC. 2832. CHILD TOBACCO USE SURVEYS.

"(a) ANNUAL PERFORMANCE SURVEY.—Not later than 1 year after the date of the enactment of this Act and annually thereafter the Secretary shall conduct a survey to determine the number of children who used each manufacturer's tobacco products within the past 30 days.

"(b) EXCLUSION OF CERTAIN AGES.—The Secretary may exclude from the survey conducted under subsection (a), children under the age of 12 years (or such other lesser age as the Secretary may establish) to strengthen the validity of the survey.

"(c) BASELINE LEVEL.—The baseline level of the child tobacco product use of a manufacturer (referred to in this subtitle as the 'baseline level') is the number of children determined to have used the tobacco products of such manufacturer in the first annual performance survey for 1998.

"(d) ADDITIONAL MEASURES.—In order to increase the understanding of youth tobacco product use, the Secretary may, for informational purposes only, add additional measures to the survey under subsection (a), conduct periodic or occasional surveys at other times, and conduct surveys of other populations such as young adults. The results of such surveys shall be made available to manufacturers and the public to assist in efforts to reduce youth tobacco use.

"(e) DEFINITION.—As used in this subtitle, the term 'tobacco product' means cigarettes, smokeless tobacco products, and roll-your-own tobacco products.

"SEC. 2833. REDUCTION IN UNDERAGE TOBACCO PRODUCT USAGE.

"(a) STANDARDS FOR EXISTING MANUFACTURERS.—Each manufacturer which manufactured a tobacco product on or before the date of the enactment of this title shall reduce the number of children who use its tobacco products so that the number of children determined to have used its tobacco products on the basis of—

"(1) the fourth annual performance survey is equal to or less than—

"(A) 60 percent of the manufacturer's baseline level; or

"(B) the de minimis level;

whichever is greater;

"(2) the fifth annual performance survey is equal to or less than—

"(A) 50 percent of the manufacturer's baseline level; or

"(B) the de minimis level;

whichever is greater;

"(3) the sixth annual performance survey is equal to or less than—

"(A) 40 percent of the manufacturer's baseline level; or

"(B) the de minimis level;

whichever is greater;

"(4) the seventh annual performance survey is equal to or less than—

"(A) 35 percent of the manufacturer's baseline level; or

"(B) the de minimis level;

whichever is greater;

"(5) the eighth annual performance survey is equal to or less than—

"(A) 30 percent of the manufacturer's baseline level; or

"(B) the de minimis level;

whichever is greater;

"(6) the ninth annual performance survey is equal to or less than—

"(A) 25 percent of the manufacturer's baseline level; or

"(B) the de minimis level;

whichever is greater; and

"(7) the 10th annual performance survey and each annual performance survey conducted thereafter is equal to or less than—

"(A) 20 percent of the manufacturer's baseline level; or

"(B) the de minimis level;

whichever is greater.

"(b) STANDARDS FOR NEW MANUFACTURERS.—Any manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this title shall ensure that the number of children determined to have used the manufacturer's tobacco products in each annual performance survey conducted after the manufacturer begins to manufacture tobacco products is equal to or less than the de minimis level.

"(c) DE MINIMIS LEVEL.—The de minimis level shall be 0.5 percent of the total number of children determined to have used tobacco products in the first annual performance survey.

"SEC. 2834. NONCOMPLIANCE.

"(a) VIOLATION OF STANDARD.—If, with respect to a year, a manufacturer of a tobacco product fails to comply with the required reduction under section 2833(a), the manufacturer shall pay to the Secretary a noncompliance fee for each unit of tobacco products manufactured by the manufacturer which is distributed for consumer use in the

year following the year in which the noncompliance occurs, in the amount specified in subsection (b).

"(b) NONCOMPLIANCE FEE PER UNIT.—

"(1) IN GENERAL.—With respect to a year, a manufacturer of a tobacco product shall be required to pay a noncompliance fee for each unit of tobacco products manufactured by the manufacturer if the noncompliance factor of the manufacturer (as determined under paragraph (3)) for the year is greater than zero.

"(2) AMOUNT OF FEE.—The amount of the noncompliance fee that is required to be paid by a manufacturer under this section for each unit of tobacco products manufactured by the manufacturer for the year involved shall be equal to—

"(A) 2 cents multiplied by so much of the noncompliance factor as does not exceed 5;

"(B) 3 cents multiplied by so much of the noncompliance factor as exceeds 5 but does not exceed 10;

"(C) 4 cents multiplied by so much of the noncompliance factor as exceeds 10 but does not exceed 15;

"(D) 5 cents multiplied by so much of the noncompliance factor as exceeds 15 but does not exceed 20; and

"(E) 6 cents multiplied by so much of the noncompliance factor as exceeds 20 but does not exceed 25.

"(3) NONCOMPLIANCE FACTOR.—The noncompliance factor of a manufacturer shall be equal to 100 multiplied by the noncompliance percentage of the manufacturer (as determined under paragraph (4)).

"(4) NONCOMPLIANCE PERCENTAGE.—The noncompliance percentage (if any) of a manufacturer shall be equal to 1 less the ratio of—

"(A) the actual reduction that is achieved by the manufacturer in the number of children who use the manufacturer's tobacco products in the year involved; and

"(B) the reduction required under section 2833(a) in the number of children who use the manufacturer's tobacco products for the year.

"(c) NONCOMPLIANCE FEES FOR CONSECUTIVE VIOLATIONS.—If a manufacturer of a tobacco product fails to comply with the required reduction under section 2833(a) in 2 or more consecutive years, the noncompliance fee that is required to be paid by the manufacturer under this section for each unit of tobacco products manufactured by such manufacturer which is distributed for consumer use in the year following the year in which the noncompliance occurs, shall be the amount determined under subsection (b) for the year multiplied by the number of consecutive years in which the manufacturer has failed to comply with such required reductions.

"(d) PROHIBITION ON SINGLE-PACK SALES IN CASES OF REPEATED NONCOMPLIANCE.—Not later than 1 year after the date of enactment of this title, the Secretary shall establish regulations to prohibit the sale of single packs of a manufacturer's tobacco products in cases of repeated noncompliance with the reductions required under section 2833(a). Such regulations shall require that, if a manufacturer fails to comply with such reductions in 3 or more consecutive years, the manufacturer's tobacco products may be sold in the following year only in packages containing not less than 10 units of the product per package (200 cigarettes per package in the case of cigarettes, and a corresponding package size for other tobacco products).

"(e) REQUIRED GENERIC PACKAGING IN SEVERE CASES OF REPEATED NONCOMPLIANCE.—Not later than 1 year after the date of enactment of this title, the Secretary shall establish regulations to require units and packages of a manufacturer's tobacco products to have generic packaging in severe cases of repeated noncompliance with the reductions required under section 2833(a). Such regulations shall require that, if a manufacturer fails to comply with such reductions in 4 or more consecutive years, the manufacturer's tobacco products may be sold in the following year only in units and packages whose packaging contains no external images, logos, or text (other than any required labels), except that the brand name and the identifier 'tobacco' may appear on the packaging in block lettering in black type on a white background.

"(f) PAYMENT.—The noncompliance fee to be paid by a manufacturer under this section shall be paid on a quarterly basis, with payments due not later than 30 days after the end of each calendar quarter.

"SEC. 2835. USE OF AMOUNTS.

"Of the amounts received under section 2834—

"(1) 37.5 percent of such amounts shall be made available to the National Biomedical and Basic Scientific Research Board for research, training and demonstration project grants under section 2822;

"(2) 37.5 percent of such amounts shall be made available to the Secretary for healthy child development grants under section 2823; and

"(3) 25 percent of such amounts shall be made available to the Secretary for reduction and addiction prevention research grants and for grants under the national tobacco usage reduction and education program under part 2 of subtitle C.

"SEC. 2836. MISCELLANEOUS PROVISIONS.

"(a) JUDICIAL REVIEW.—A manufacturer of tobacco products may seek judicial review of any action under this subtitle only after a noncompliance fee has been assessed and paid by the manufacturer and only in the United States District Court for the District of Columbia. In an action by a manufacturer seeking judicial review of an annual performance survey, the manufacturer may prevail—

"(1) only if the manufacturer shows that the results of the performance survey were arbitrary and capricious; and

"(2) only to the extent that the manufacturer shows that it would have been required to pay a lesser noncompliance fee if the results of the performance survey were not arbitrary and capricious.

"(b) PASS-THROUGH.—Nothing in this subtitle shall be construed as prohibiting a manufacturer from passing the costs of the amount of any noncompliance fee assessed under this subtitle on to consumers of tobacco products as a further economic deterrent to the use of such products.

"(c) PROHIBITION.—No stay or other injunctive relief may be granted by the Secretary or any court that has the effect of enjoining the imposition and collection of noncompliance fees to be applied under this section.

"(d) CHILD.—As used in this subtitle, the term 'child' means, except as provide in section 2832(b), an individual who is under the age of 18.

"Subtitle D—Miscellaneous Provisions

"SEC. 2841. WHISTLEBLOWER PROTECTIONS.

"(a) PROHIBITION OF REPRISALS.—An employee of any manufacturer, distributor, or retailer of a tobacco product may not be discharged, demoted, or otherwise discriminated against (with respect to compensation, terms, conditions, or privileges of employment) as a reprisal for disclosing to an employee of the Food and Drug Administration, the Department of Health and Human Services, the Department of Justice, or any State or local regulatory or enforcement authority, information relating to a substantial violation of law related to this title or a State or local law enacted to further the purposes of this title.

"(b) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged, demoted, or otherwise discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge, demotion, or discrimination.

"(c) REMEDIES.—If the district court determines that a violation has occurred, the court may order the manufacturer, distributor, or retailer involved to—

"(1) reinstate the employee to the employee's former position;

"(2) pay compensatory damages; or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATION.—The protections of this section shall not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation; or

"(2) knowingly or recklessly provides substantially false information to the Food and Drug Administration, the Department of Health and Human Services, the Department of Justice, or any State or local regulatory or enforcement authority.

"SEC. 2842. NATIONAL TOBACCO DOCUMENT DEPOSITORY.

"(a) PURPOSE.—It is the purpose of this section to provide for the disclosure of previously nonpublic or confidential documents by manufacturers of tobacco products, including the results of internal health research, and to provide for a procedure to settle claims of attorney-client privilege, work product, or trade secrets with respect to such documents.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall provide for the establishment, either within the Department of Health and Human Services or through a private nonprofit entity, of a National Tobacco Document Depository (in this section referred to as the 'Depository'). Such Depository shall be located in the Washington, D.C. area and be open to the public.

"(2) DOCUMENTS.—Manufacturers of tobacco products, acting in conjunction with the Tobacco Institute and the Council for Tobacco Research, U.S.A., shall, not later than 30 days after the date of enactment of this title, provide documents to the Depository in accordance with this section.

"(3) FUNDING.—The entities described in paragraph (2) shall bear the sole responsibility for funding the Depository.

"(c) USE OF DEPOSITORY.—The Depository shall be maintained in a manner that permits the Depository to be used as a resource for litigants, public health groups, and any other individuals who have an interest in the corporate records and research of the manufacturers concerning smoking and health, addiction or nicotine dependency, safer or less hazardous cigarettes, and underage tobacco use and marketing.

"(d) CONTENTS.—The Depository shall include (and manufacturers and the Tobacco Institute and the Council for Tobacco Research, U.S.A. shall provide)—

"(1) within 90 days of the date of the establishment of the Depository, all documents provided by such entities to plaintiffs in—

"(A) civil or criminal actions brought by State attorneys general (including all documents selected by plaintiffs from the Guilford Repository of the United Kingdom);

"(B) Philip Morris Companies Inc.'s defamation action against Capital Cities/American Broadcasting Company News;

"(C) the Federal Trade Commission's investigation concerning Joe Camel and underage marketing;

(D) *Haines v. Liggett Group, Inc.* (814 F. Supp. 414 (D.N.J., Jan. 26, 1993)) and *Cippollone v. Liggett Group, Inc.* (822 F. 2d 335, 56 USLW 2028, 7 Fed. R. Serv. 3d 1438 (3rd Cir. (N.J.), Jun. 8, 1987)); and

(E) *Estate of Burl Butler v. Philip Morris, Inc.* (case No. 94-4-53);

"(2) within 90 days after the date of the establishment of the Depository, any exiting documents discussing or referring to health research, addiction or dependency, safer or less hazardous cigarettes, studies of the smoking habits of minors, and the relationship between advertising or promotion and youth smoking, that the entities described in subsection (b) have not completed producing as required in the actions described in paragraph (1);

"(3) within 30 days of the date of the establishment of the Depository, all documents relating to indices (as defined by the court in *State of Minnesota and Blue Cross and Blue Shield of Minnesota v. Philip Morris, Inc., et al*) of documents relating to smoking and health, including all indices identified by the manufacturers in the the *State of Texas v. American Tobacco Company, et al.*;

"(4) upon the settlement of any action referred to in this subsection, and after a good-faith, de novo, document-by-document review of all documents previously withheld from production in any actions on the grounds of attorney-client privilege, all documents determined to be outside of the scope of the privilege;

"(5) all existing or future documents relating to original laboratory research concerning the health or safety of tobacco products, including all laboratory research results relating to methods used to make tobacco products less hazardous to consumers;

"(6) a comprehensive new attorney-client privilege log of all documents, itemized in sufficient detail so as to enable any interested individual to determine whether the individual will challenge the claim of privilege, that the entities described in subsection (b) (based on the de novo review of such documents by such entities) claims are protected from disclosure under the attorney-client privilege;

"(7) all existing or future documents relating to studies of the smoking habits of minors or documents referring to any relationship between advertising and promotion and underage smoking; and

"(8) all other documents determined appropriate under regulations promulgated by the Secretary.

"(e) DISPUTE RESOLUTION PANEL.—

"(1) ESTABLISHMENT.—The Judicial Conference of the United States shall establish a Tobacco Documents Dispute Resolution Panel, to be composed of 3 Federal judges to be appointed by the Conference, to resolve all disputes involving claims of attorney-client, work product, or trade secrets privilege with respect to documents required to be deposited into the Depository under subsection (d) that may be brought by Federal, State, or local governmental officials or the public or asserted in any action by a manufacturer.

"(2) BASIS FOR DETERMINATIONS.—The determinations of the Panel established under paragraph (1) shall be based on—

"(A) the American Bar Association/American Law Institute Model Rules or the principals of Federal law with respect to attorney-client or work product privilege; and

"(B) the Uniform Trade Secrets Act with respect to trade secrecy.

"(3) DECISION.—Any decision of the Panel established under paragraph (1) shall be final and binding upon all Federal and State courts.

"(4) ASSESSING OF FEES.—As part of a determination under this subsection, the Panel established under paragraph (1) shall determine whether a claimant of the privilege acted in good faith and had a factual and legal basis for asserting the claim. If the Panel determines that the claimant did not act in good faith, the Panel may assess costs against the claimant, including a reasonable attorneys' fee, and may apply such other sanctions as the Panel determines appropriate.

"(5) ACCELERATED REVIEW.—The Panel established under paragraph (1) shall establish procedures for the accelerated review of challenges to a claim of privilege. Such procedures shall include assurances that an individual filing a challenge to such a claim need not make a prima facie showing of any kind as a prerequisite to an in camera review of the documents at issue.

"(6) SPECIAL MASTERS.—The Panel established under paragraph (1) may appoint Special Masters in accordance with Rule 53 of the Federal Rules of Civil Procedure. The cost relating to any Special Master shall be assessed to the manufacturers as part of a fee process to be established under regulations promulgated by the Secretary.

"(f) OTHER PROVISIONS.—

"(1) NO WAIVER OF PRIVILEGE.—Compliance with this section by the entities described in subsection (b) shall not be deemed to be a waiver on behalf of such entities of any applicable privilege or protection.

"(2) AVOIDANCE OF DESTRUCTION.—In establishing the Depository, procedures shall be implemented to protect against the destruction of documents.

"(3) DEEMED PRODUCED.—Any documents contained in the Depository shall be deemed to have been produced for purposes of any tobacco-related litigation in the United States.

"(g) DOCUMENTS.—For purposes of this section, the term 'documents' shall include any paper documents that may be printed using data that is contained in computer files.

"(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to interfere in any way with the discovery rights of courts or parties in civil or criminal actions involving tobacco products, or the right of access to such documents under any other provision of law.

"SEC. 2843. TOBACCO OVERSIGHT AND COMPLIANCE BOARD.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established an independent board to be known as the Tobacco Oversight and Compliance Board (referred to in this section as the 'Board').

"(2) MEMBERSHIP.—The Board shall consist of 5 members with expertise relating to tobacco and public health. The members, including the chairperson, shall be appointed by the Secretary. The initial members of the Board shall be appointed by the Secretary within 30 days of the date of the enactment of this title. A member of the Board may be removed by the Secretary only for neglect of duty or malfeasance in office.

"(3) TERMS.—The term of office of a member of the Board shall be 6 years, except that the members first appointed shall have terms of 2, 3, 4, and 5 years, respectively, as determined by the Secretary.

"(b) GENERAL DUTY.—The Board shall oversee and monitor the operations of the tobacco industry to determine whether tobacco product manufacturers are in compliance with this Act.

"(c) DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS.—

"(1) SUBMISSION BY MANUFACTURERS.—Not later than 3 months after the date of the enactment of this title, and as otherwise required by the Board, each tobacco manufacturer shall submit to the Board a copy of all documents in the manufacturer's possession—

"(A) relating to—

"(i) any health effects, including addiction, caused by the use of tobacco products;

"(ii) the manipulation or control of nicotine in tobacco products; or

"(iii) the sale or marketing of tobacco products to children; or

"(B) produced, or ordered to be produced, by the tobacco manufacturer in the case entitled *State of Minnesota v. Philip Morris, Inc.*, Civ. Action No. C1-94-8565 (Ramsey County, Minn.) including attorney-client and other documents produced or ordered to be produced for in camera inspection.

"(2) DISCLOSURE BY THE BOARD.—Not later than 6 months after the date of the enactment of this title, and otherwise as required by the Board, the Board shall, subject to paragraph (3), make available to the public the documents submitted under paragraph (1).

"(3) PROTECTION OF TRADE SECRETS.—The Board, members of the Board, and staff of the Board shall not disclose information that is entitled to protection as a trade secret unless the Board determines that disclosure of such information is necessary to protect the public health. This paragraph shall not be construed to prevent the disclosure of relevant information to other Federal agencies or to committees of the Congress.

"(d) INVESTIGATION AND ANNUAL REPORTS.—The Board shall investigate all matters relating to the tobacco industry and public health and report annually on the results of the investigation to Congress. Each annual report to Congress shall, at a minimum, disclose—

"(1) whether tobacco manufacturers are in compliance with the provisions of this Act;

"(2) any efforts by tobacco manufacturers to conceal research relating to the adverse health effects or addiction caused by the use of tobacco products;

"(3) any efforts by tobacco manufacturers to mislead the public or any Federal, State, or local elected body, agency, or court about the adverse health effects or addiction caused by the use of tobacco products;

"(4) any efforts by tobacco manufacturers to sell or market tobacco products to children; and

"(5) any efforts by tobacco manufacturers to circumvent, repeal, modify, impede the implementation of, or prevent the adoption of any Federal, State, or local law or regulation intended to reduce the adverse health effects or addiction caused by the use of tobacco products.

"(e) AUTHORITY.—The Board, any member of the Board, or staff designated by the Board may hold hearings, administer oaths, issue subpoenas, require the testimony or deposition of witnesses, the production of

documents, or the answering of interrogatories, or, upon presentation of the proper credentials, enter and inspect facilities.

"(f) ENFORCEMENT.—Notwithstanding any other provision of law, tobacco manufacturers shall provide any testimony, deposition, documents, or other information, answer any interrogatories, and allow any entry or inspection required pursuant to this section, except to the extent that a constitutional privilege protects the tobacco manufacturer from complying with such requirement.

"(g) ADMINISTRATION.—

"(1) STAFF.—The Chairperson of the Board shall exercise the executive and administrative functions of the Board and shall have the authority to hire such staff as may be necessary for the operation of the Board.

"(2) SALARIES.—The members of the Board shall receive such salary and benefits as the Secretary deems necessary, except that the salary of the Chairperson shall not be less than that provided for under level III of the Executive Schedule in section 5314 of title 5, United States Code.

"SEC. 2844. PRESERVATION OF STATE AND LOCAL AUTHORITY.

"Except as otherwise provided for in this title or the Healthy and Smoke Free Children Act (or an amendment made by such Act), nothing in this title or such Act shall be construed as prohibiting a State from imposing requirements, prohibitions, penalties or other measures to further the purposes of this title or Act that are in addition to the requirements, prohibitions, or penalties required under this title or Act. To the extent not inconsistent with the purposes of this title or Act, State and local governments may impose additional tobacco product control measures to further restrict or limit the use of such products by minors.

"SEC. 2845. REGULATIONS.

"The Secretary may promulgate regulations to enforce the provisions of this title, or to modify, alter, or expand the requirements and protections provided for in this title if the Secretary determines that such modifications, alterations, or expansion is necessary.".

TITLE II—FDA JURISDICTION OVER TOBACCO PRODUCTS

Subtitle A—Amendments to the Federal Food, Drug and Cosmetic Act

SEC. 201. REFERENCE.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. 202. STATEMENT OF GENERAL AUTHORITY.

The Secretary of Health and Human Services, acting through the Food and Drug Administration, shall have the authority under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) (above and beyond the existing authority of the Secretary to regulate tobacco products as of the date of enactment of this Act) to regulate the manufacture, labeling, sale, distribution, and advertising of tobacco products.

SEC. 203. TREATMENT OF TOBACCO PRODUCTS AS DRUGS AND DEVICES.

(a) DEFINITIONS.—

(1) DRUG.—Section 201(g)(1) (21 U.S.C. 321(g)(1)) is amended by striking "; and (D)" and inserting "(including nicotine in tobacco products); and (D)".

(2) DEVICES.—Section 201(h) (21 U.S.C. 321(h)) is amended—

(A) in paragraph (3), by inserting before the comma the following: "(including tobacco products containing nicotine); and

(B) by adding at the end the following: "For purposes of this Act a tobacco product shall be classified as a class II device.".

(3) OTHER DEFINITIONS.—Section 201 (21 U.S.C. 321) is amended by adding at the end thereof the following new paragraphs:

"(ii)(1) The term 'tobacco product' means cigarettes, cigarillos, cigarette tobacco, little cigars, pipe tobacco, and smokeless tobacco, and roll-your-own tobacco.

"(2) The term 'cigarette' means any product which contains nicotine, is intended to be burned under ordinary conditions of use, and consists of—

"(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

"(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

"(3) The term 'cigarette tobacco' means any product that consists of loose tobacco that contains or delivers nicotine and is intended for use by persons in a cigarette. Unless otherwise stated, the requirements of this title pertaining to cigarettes shall also apply to cigarette tobacco.

"(4) The term 'smokeless tobacco' means any product that consists of cut, ground, powdered, or leaf tobacco that contains nicotine and that is intended to be placed in the oral or nasal cavity.

"(5) The term 'roll-your-own tobacco' has the meaning given such term by section 5702(p) of the Internal Revenue Code of 1986.

"(6) The term 'little cigars' means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of this Act) an as to which 1,000 units weigh not more than 3 pounds.

"(7) The term 'cigar' means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette or cigarillo within the meaning of paragraph (3) or (4)).

"(8) The term 'cigarillos' means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of paragraph (3)) and as to which 1,000 units weigh not more than 3 pounds.

"(9) The term 'pipe tobacco' means any loose tobacco that, because of its appearance, type, packaging, or labeling, is likely to be offered to, or purchased by, consumers as a tobacco product to be smoked in a pipe.

"(10) The term 'nicotine' means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl)pyridine or $C_{10}H_{14}N_2$, including any salt or complex of nicotine.".

"(11) The term 'tobacco additive' means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in the substance becoming a component of, or otherwise affecting the characteristics of, any tobacco product, including any substance that may have been removed from the tobacco product and then readded in the substance's original or modified form.

"(12) The term 'tar' means mainstream total articulate matter minus nicotine and water.".

(b) MISBRANDING.—Section 502(q) (21 U.S.C. 352(q)) is amended—

(1) by striking "or (2)" and inserting "(2)"; and

(2) by inserting before the period the following: "or (3) in the case of a tobacco product, it is sold, distributed, advertised, labeled, or used in violation of this Act or the regulations prescribed under this Act.".

(c) REGULATORY AUTHORITY.—Section 503(g)(1) (21 U.S.C. 353(g)(1)) is amended by inserting "(including any tobacco product)" after "products" the first place such term appears.

(d) CLASS II DEVICES.—Section 513(a)(1)(B) (21 U.S.C. 360c(a)(1)(B)) is amended—

(1) by striking "A device" and inserting "(i) A device"; and

(2) by adding at the end the following: "Tobacco products shall be categorized as Class II devices.

"(ii) The sale of tobacco products to adults that comply with Performance Standards established for these products pursuant to section 514, title XXVIII of the Public Health Service Act, and this Act, and any regulations prescribed under this Act, shall not be prohibited by the Secretary, notwithstanding sections 502(j), 516, and 518.".

(e) PERFORMANCE STANDARDS.—Section 514(a) (21 U.S.C. 360d(a)) is amended—

(1) in paragraph (2), by striking "device—" and inserting "non-tobacco product device—";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by adding at the end the following:

"(3)(A) A performance standard established under this section for a tobacco product device—

"(i) shall include provisions to reduce the overall health risks to the public, including the reduction in risk to consumers thereof and the reduction in harm which will result from those who continue to use the product, but less often and from those who stop or do not start using the product, taking into account all factors that the Secretary determines to be relevant;

"(ii) shall, where necessary to provide a reduction in the overall health risks to the public, include—

"(I) provisions regarding the construction, components, constituents, ingredients, and properties of the tobacco product device, including the reduction or elimination of nicotine and the other components, ingredients, and constituents of the tobacco product and its components, based upon the best available technology;

"(II) provisions for the testing of the tobacco product device (on a sample basis or, if necessary, on an individual basis) or, if it determined that no other more practicable means are available to the Secretary to assure the conformity of the tobacco product device to the standard, provision for the testing (on a sample basis or, if necessary, on an individual basis) by the Secretary or by another person at the direction of the Secretary;

"(III) provisions for the measurement of the performance characteristics of the tobacco product device;

"(IV) provisions requiring that the results of each or of certain of the tests of the tobacco product device required to be made under subclause (II) show that the tobacco product device is in conformity with the portions of the standard for which the test or tests were required; and

"(V) a provision that the sale, advertising, and distribution of the tobacco product device be restricted but only to the extent the sale, advertising, and distribution of a tobacco product device may be restricted under this Act or title XXVIII of the Public Health Service Act; and

"(iii) shall, where appropriate, require the use and prescribe the form and content of labeling for use of the tobacco product device.

"(B) The Secretary shall provide for the periodic evaluation of a performance standard established under this paragraph to determine if such standards should be changed to reflect new medical, scientific, or other technological data.

"(C) In carrying out this paragraph, the Secretary shall, to the maximum extent practicable—

"(i) use personnel, facilities, and other technical support available in other Federal agencies;

"(ii) consult with the Scientific Advisory Committee established under section 905 and other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

"(iii) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations who in the judgment of the Secretary can make a significant contribution.".

(f) RESTRICTED DEVICES.—Section 520(e) (21 U.S.C. 360j(e)) is amended by adding at the end the following:

"(3) A tobacco product is a restricted device.".

(g) REGULATIONS.—Section 701(a) (21 U.S.C. 371(a)) is amended by inserting before the period the following: ", including the authority to regulate the manufacture, sale, distribution, advertising and marketing of tobacco products".

SEC. 204. GENERAL HEALTH AND SAFETY REGULATION OF TOBACCO PRODUCTS.

The Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901, 902, 903, 904, and 905 as sections 1001, 1002, 1003, 1004, and 1005, respectively; and

(3) by adding after chapter VIII the following new chapter:

"CHAPTER IX—TOBACCO PRODUCTS

"SEC. 901. DEFINITIONS.

"For purposes of this chapter and in addition to the definitions contained in section 201, the definitions under section 2801 of the Public Health Service Act shall apply.

"SEC. 902. PURPOSE.

"It is the purpose of this chapter to impose a regulatory scheme applicable to the development and manufacturing of tobacco products. Such scheme shall include—

"(1) with respect to ingredients contained in such products—

"(A) the immediate and annual reporting, in accordance with section 909(a), of all ingredients contained in such products;

"(B) the performance, in accordance with section 909(b), of safety assessments with respect to ingredients contained in such products; and

"(C) the approval, in accordance with section 909(b), of ingredients contained in such products; and

"(2) the imposition of standards to reduce the level of certain constituents contained in such products, including nicotine.

"SEC. 903. PROMULGATION OF REGULATIONS.

"The Commissioner shall promulgate regulations governing the misbranding, adulteration, and dispensing of tobacco products that are consistent with this chapter and with the manner in which other products that are ingested into the body are regulated under this Act. Such regulations shall be promulgated not later than 12 months after the date of enactment of this chapter.

"SEC. 904. MINIMUM REQUIREMENTS.

"(a) MISBRANDING.—The regulations promulgated under section 903 shall at a minimum require that a tobacco product be deemed to be misbranded if the labeling of the package of such product is not in compliance with the provisions of this chapter, of other applicable provisions of this Act, or of section 910 (as applicable to the type of product involved) of the Public Health Service Act.

"(b) ADULTERATION.—The regulations promulgated under section 903 shall at a minimum require that a tobacco product be deemed to be adulterated if the Commissioner determines that any tobacco additive in such product, regardless of the amount of such tobacco additive, either by itself or in conjunction with any other tobacco additive or ingredient is harmful under the intended conditions of use when used in a specified amount.

"SEC. 905. SCIENTIFIC ADVISORY COMMITTEE.

"(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this chapter, the Secretary shall establish an advisory committee, to be known as the 'Scientific Advisory Committee', to assist the Secretary in establishing, amending, or revoking a performance standard under section 512(a)(3).

"(b) MEMBERSHIP.—The Secretary shall appoint as members of the Scientific Advisory Committee any individuals with expertise in the medical, scientific, or other technological data involving the manufacture and use of tobacco products, and of appropriately diversified professional backgrounds. The Secretary may not appoint to the Committee any individual who is in the regular full-time employ of the Federal Government. The Secretary shall designate 1 of the members of each advisory committee to serve as chairperson of the Committee.

"(c) COMPENSATION AND EXPENSES.—

"(1) COMPENSATION.—Members of the Scientific Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the Committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary, which rates may not exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including traveltime) they are so engaged.

"(2) EXPENSES.—While conducting the business of the Scientific Advisory Committee away from their homes or regular places of business, each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

"(d) DUTIES.—The Scientific Advisory Committee shall—

"(1) assist the Secretary in establishing, amending, or revoking performance standards under section 514(a)(3);

"(2) examine and determine the effects of the alteration of the nicotine yield levels in tobacco products;

"(3) examine and determine whether there is a threshold level below which nicotine yields do not produce dependence on the tobacco product involved, and, if so, determine what that level is; and

"(4) review other safety, dependence or health issues relating to tobacco products as determined appropriate by the Secretary.

"SEC. 906. REQUIREMENTS RELATING TO NICOTINE AND OTHER CONSTITUENTS.

"(a) GENERAL RULE.—The Secretary may adopt a performance standard under section 514(a)(3) that requires the modification of a tobacco product in a manner that involves—

"(1) the reduction or elimination of nicotine yields of the product; or

"(2) the reduction or elimination of other constituents or harmful components of the product.

"(b) TOBACCO CONSTITUENTS.—The Secretary shall promulgate regulations for the testing, reporting and disclosure of tobacco smoke constituents that the Secretary determines the public should be informed of to protect public health, including tar, nicotine, and carbon monoxide. Such regulations may require label and advertising disclosures relating to tar and nicotine.

"(c) LIMITATION ON TAR.—Not later than 3 years after the date of enactment of this chapter, the Secretary shall promulgate regulations that limit the amount of tar in a cigarette to no more than 12 milligrams. Nothing in the preceding sentence shall be construed as limiting the authority of the Secretary to promulgate regulations further limiting the amount of tar that may be contained in a cigarette.

"SEC. 907. REDUCED RISK PRODUCTS.

"(a) MISBRANDING.—Except as provided in subsection (b), the regulations promulgated in accordance with section 904(a) shall require that a tobacco product be deemed to be misbranded if the labeling of the package of the product, or the claims of the manufacturer in connection with the product, can reasonably be interpreted by an objective consumer as stating or implying that the product presents a reduced health risk as compared to other similar products.

"(b) EXCEPTION.—

"(1) IN GENERAL.—Subsection (a) shall not apply to the labeling of a tobacco product, or the claims of the manufacturer in connection with the product, if—

"(A) the manufacturer, based on the best available scientific evidence, demonstrates to the Commissioner that the product significantly reduces the risk to the health of the user as compared to other similar tobacco products; and

"(B) the Commissioner approves the specific claim that will be made a part of the labeling of the product, or the specific claims of the manufacturer in connection with the product.

"(2) REDUCTION IN HARM.—The Commissioner shall promulgate regulations to permit the inclusion of scientifically-based specific health claims on the labeling of a tobacco product package, or the making of such claims by the manufacturer in connection with the product, where the Commissioner determines that the inclusion or making of such claims would reduce harm to the public and otherwise promote public health.

"(c) DEVELOPMENT OF REDUCED RISK PRODUCT TECHNOLOGY.—

"(1) NOTIFICATION OF COMMISSIONER.—The manufacturer of a tobacco product shall provide written notice to the Commissioner upon the development or acquisition by the manufacturer of any technology that would reduce the risk of such products to the health of the user.

"(2) CONFIDENTIALITY.—The Commissioner shall promulgate regulations to provide a manufacturer with appropriate confidentiality protections with respect to technology that is the subject of a notification under paragraph (1) that contains evidence that the technology involved is in the early developmental stages.

"(3) LICENSING.—

"(A) IN GENERAL.—With respect to any technology developed or acquired under paragraph (1), the manufacturer shall—

"(i) use such technology in the manufacture of its tobacco products; or

"(ii) permit the use of such technology (for a reasonable fee) by other manufacturers of tobacco products to which this chapter applies.

"(B) FEES.—The Commissioner shall promulgate regulations to provide for the payment of a commercially reasonable fee by each manufacturer that uses the technology described under subparagraph (A) to the manufacturer that submits the notice under paragraph (1) for such technology. Such regulations shall contain procedures for the resolution of fee disputes between manufacturers under this subparagraph.

"(d) REQUIREMENT OF MANUFACTURE AND MARKETING.—

"(1) PURPOSE.—It is the purpose of this subsection to provide for a mechanism to ensure that tobacco products that are designed to be less hazardous to the health of users are developed, tested, and made available to consumers.

"(2) DETERMINATION.—Upon a determination by the Commissioner that the manufacture of a tobacco product that is less hazardous to the health of users is technologically feasible, the Commissioner may, in accordance with this subsection, require that certain manufacturers of such products manufacture and market such less hazardous products.

"(3) MANUFACTURER.—

"(A) REQUIREMENT.—Except as provided in subparagraph (B), the requirement under paragraph (2) shall apply to any manufacturer that provides a notification to the Commissioner under subsection (c)(1) concerning the technology that is the subject of the determination of the Commissioner.

"(B) EXCEPTION.—The requirement under subparagraph (A) shall not apply to a manufacturer if—

"(i) the manufacturer elects not to manufacture such products and provides notice to the Commissioner of such election; and

"(ii) the manufacturer agrees to provide the technology involved, for a commercially reasonable fee, to other manufacturers that enter into agreements to use such technology to manufacture and market tobacco products that are less hazardous to the health of users.

"SEC. 908. GOOD MANUFACTURING PRACTICE STANDARDS.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary may, in accordance with paragraph (2), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation (including a process to assess the performance of a tobacco product), packing, and storage of a tobacco product conform to current good manufacturing practice, as prescribed in such regulations, to ensure that such products will be in compliance with this chapter.

"(2) REQUIREMENTS PRIOR TO REGULATIONS.—Prior to the Secretary promulgating any regulation under paragraph (1) the Secretary shall—

"(A) afford the Scientific Advisory Committee established under section 905 an opportunity (with a reasonable time period) to submit recommendations with respect to the regulations proposed to be promulgated; and

"(B) afford an opportunity for an oral hearing.

"(b) MINIMUM REQUIREMENTS.—The regulations promulgated under subsection (a) shall at a minimum require—

"(1) the implementation of a quality control system by the manufacturer of a tobacco product;

"(2) a process for the inspection, in accordance with this Act, of tobacco product material prior to the packaging of such product;

"(3) procedures for the proper handling and storage of the packaged tobacco product;

"(4) after consultation with the Administrator of the Environmental Protection Agency, the development and adherence to applicable tolerances with respect to pesticide chemical residues in or on commodities used by the manufacturer in the manufacture of the finished tobacco product;

"(5) the inspection of facilities by officials of the Food and Drug Administration as otherwise provided for in this Act; and

"(6) record keeping and the reporting of certain information.

"(c) PETITIONS FOR EXEMPTIONS AND VARIANCES.—

"(1) IN GENERAL.—Any person subject to any requirement prescribed by regulations under subsection (a) may petition the Secretary for an exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

"(A) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to ensure that the device is in compliance with this chapter;

"(B) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the product in lieu of the methods, facilities, and controls prescribed by the requirement; and

"(C) contain such other information as the Secretary shall prescribe.

"(2) SCIENTIFIC ADVISORY COMMITTEE.—The Secretary may refer to the Scientific Advisory Committee established under section 905 any petition submitted under paragraph (1). The Scientific Advisory Committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days of the date of the petition's referral. Within 60 days after—

"(A) the date the petition was submitted to the Secretary under paragraph (1); or

"(B) if the petition was referred to the Scientific Advisory Committee, the expiration of the 60-day period beginning on the date the petition was referred to such Committee;

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

"(3) APPROVAL OF PETITION.—

"(A) IN GENERAL.—The Secretary may approve—

"(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the product will comply with this chapter; and

"(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to ensure that the product will comply with this chapter.

"(B) CONDITIONS.—An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to ensure that the product will comply with this chapter.

"(4) INFORMAL HEARING.—After the issuance of an order under paragraph (2) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

"(d) AGRICULTURAL PRODUCERS.—The Secretary may not promulgate any regulation under this section that has the effect of placing regulatory burdens on tobacco producers (as such term is used for purposes of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) and the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.)) in excess of the regulatory burdens generally placed on other agricultural commodity producers.

"SEC. 909. DISCLOSURE AND REPORTING OF NON-TOBACCO INGREDIENTS AND CONSTITUENTS.

"(a) DISCLOSURE OF ALL INGREDIENTS.—

"(1) IMMEDIATE AND ANNUAL DISCLOSURE.—Not later than 30 days after the date of enactment of this chapter, and annually thereafter, each manufacturer of a tobacco product shall submit to the Secretary an ingredient list for all brands of tobacco products that contains the information described in paragraph (2).

"(2) REQUIREMENTS.—The list described in paragraph (1) shall, with respect to each brand of tobacco product of a manufacturer, include

"(A) a list of all ingredients, constituents, substances, and compounds that are added to the tobacco (and the paper or filter of the product if applicable) in the manufacture of the tobacco product, for each brand of tobacco product so manufactured;

"(B) a description of the quantity of the ingredients, constituents, substances, and compounds that are listed under subparagraph (A) with respect to each brand of tobacco product;

"(C) a description of the nicotine content of the product, measured in milligrams of nicotine;

"(D) with respect to cigarettes a description of—

"(i) the filter ventilation percentage (the level of air dilution in the cigarette as provided by the ventilation holes in the filter, described as a percentage);

"(ii) the pH level of the smoke of the cigarette; and

"(iii) the nicotine delivery level under average smoking conditions reported in milligrams of nicotine per cigarette;

"(E) with respect to smokeless tobacco products a description of—

"(i) the pH level of the tobacco;

"(ii) the moisture content of the tobacco expressed as a percentage of the weight of the tobacco; and

"(iii) the nicotine content—

"(I) for each gram of the product, measured in milligrams of nicotine;

"(II) expressed as a percentage of the dry weight of the tobacco; and

"(III) with respect to unionized (free) nicotine, expressed as a percentage per gram of the tobacco and expressed in milligrams per gram of the tobacco; and

"(F) any other information determined appropriate by the Secretary.

"(b) SAFETY ASSESSMENTS.—

"(1) APPLICATION TO NEW INGREDIENTS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this chapter, and annually thereafter, each manufacturer shall submit to the Secretary a safety assessment for each new ingredient, constituent, substance, or compound that such manufacturer desires to make a part of a tobacco product. Such new ingredient, constituent, substance, or compound shall not be included in a tobacco product prior to approval of such a safety assessment.

"(B) DEFINITION OF NEW INGREDIENT.—For purposes of subparagraph (A), the term 'new ingredient, constituent, substance, or compound' means an ingredient, constituent substance, or compound listed under subsection (a)(1) that was not used in the brand of tobacco product involved prior to the date of enactment of this chapter.

"(2) APPLICATION TO OTHER INGREDIENTS.—With respect to the application of this section to ingredients, constituents substances, or compounds listed under subsection (a) to which paragraph (1) does not apply, all such ingredients, constituents, substances, or compounds shall be approved through the safety assessment process within the 5-year period beginning on the date of enactment of this chapter. The Secretary shall develop a procedure that staggers the percentage of such ingredients, constituents, substances, or compounds for which safety assessments must be submitted for approval by manufacturers in each year.

"(3) BASIS OF ASSESSMENT.—The safety assessment of an ingredient, constituents, substance, or compound described in paragraphs (1) and (2) shall—

"(A) be based on the best scientific evidence available at the time of the submission of the assessment; and

"(B) result in a finding that there is a reasonable certainty in the minds of competent scientists that the ingredient, constituents, substance, or compound is not harmful in the quantities used under the intended conditions of use.

"(c) PROHIBITION.—

"(1) REGULATIONS.—Not later than 12 months after the date of enactment of this chapter, the Secretary shall promulgate regulations to prohibit the use of any ingredient, constituent, substance, or compound in the tobacco product of a manufacturer—

"(A) if no safety assessment has been submitted by the manufacturer for the ingredient, constituent, substance, or compound as otherwise required under this section;

"(B) if the Secretary disapproves of the safety of the ingredient, constituent, substance, or compound that was the subject of the assessment under paragraph (2); or

"(C) if such ingredient, constituent, substance, or compound is a new ingredient that has not been approved for use by the Secretary.

"(2) REVIEW OF ASSESSMENTS.—

"(A) GENERAL REVIEW.—Not later than 180 days after the receipt of a safety assessment under subsection (b), the Secretary shall review the findings contained in such assessment and approve or disapprove of the safety of the ingredient, constituents, substance, or compound that was the subject of the assessment. The Secretary may, for good cause, extend the period for such approval. The Secretary shall provide notice to the manufacturer of an action under this subparagraph.

"(B) INACTION BY SECRETARY.—If the Secretary fails to act with respect to an assessment of an existing ingredient, constituent, substance, or additive during the period referred to in subparagraph (A), the manufacturer of the tobacco product involved may continue to use the ingredient, constituents, substance, or compound involved until such time as the Secretary makes a determination with respect to the assessment.

"(d) DISCLOSURE OF INGREDIENTS TO THE PUBLIC.—

"(1) INITIAL DISCLOSURE.—The regulations promulgated in accordance with section 904(a) shall, at a minimum, require that a tobacco product be deemed to be misbranded if the labeling of the package of such product does not disclose all ingredients, constituents, substances, or compounds contained in the product in accordance with regulations promulgated by the Secretary.

"(2) DISCLOSURE OF PERCENTAGE OF DOMESTIC AND FOREIGN TOBACCO.—The regulations referred to in paragraph (1) shall, at a minimum, require that a tobacco product be deemed to be misbranded if the labeling of the package of such product does not disclose, with respect to the tobacco contained in the product—

"(A) the percentage that is domestic tobacco; and

"(B) the percentage that is foreign tobacco.

"(e) CONFIDENTIALITY.—

"(1) PETITION BY MANUFACTURER.—Upon the submission of a list under subsection (a), a manufacturer may petition the Secretary to exempt certain ingredients, constituents, substances, or compounds on such list from public disclosure under subsection (e) on the basis that such information should be considered confidential as a trade secret. Such petition may be accompanied by such data as the manufacturer elects to submit.

"(2) DETERMINATION.—Not later than 60 days after receiving a petition under paragraph (1), the Secretary, in consultation with the Attorney General, shall make a determination with respect to whether the information described in the petition should be exempt from disclosure under paragraph (1) as a trade secret. The Secretary shall provide the manufacturer involved with notice of such determination. but the decision of the Secretary shall be final.

"(3) PROCEDURES FOR CONFIDENTIAL INFORMATION.—The Secretary shall develop procedures to maintain the confidentiality of information that is treated as a trade secret under a determination under paragraph (2). Such procedures shall include—

"(A) a requirement that such information be maintained in a secure facility; and

"(B) a requirement that only the Secretary, or the authorized agents of the Secretary, will have access to the information and shall be instructed to maintain the confidentiality of such information.

"(4) HEALTH DISCLOSURE.—Notwithstanding a determination under paragraph (2), the Secretary may require that any ingredient, constituents, substance, or compound contained in a tobacco product that is determined to be exempt from disclosure as a trade secret be disclosed if the Secretary determines that such ingredient, constituents, substance, or compound is not safe as provided for in subsection (d).

"(5) OTHER DISCLOSURE.—Any information that the Secretary determines is not subject to disclosure to the public under this subsection, shall be exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of such section, and shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees as provided for in paragraph (3)(B) or when relevant in any proceeding under this Act.

"SEC. 910. TOBACCO PRODUCT WARNINGS, LABELING AND PACKAGING.

"(a) CIGARETTE WARNINGS.—

"(1) IN GENERAL.—

"(A) PACKAGING.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this subsection, one of the following labels:

"WARNING: Cigarettes Are Addictive.

"WARNING: Tobacco Smoke Can Harm Your Children.

"WARNING: Cigarettes Cause Fatal Lung Disease.

"WARNING: Cigarettes Cause Cancer.

"WARNING: Cigarettes Cause Strokes And Heart Disease.

"WARNING: Smoking During Pregnancy Can Harm Your Baby.

"WARNING: Smoking Can Kill You.

"WARNING: Tobacco Smoke Causes Fatal Lung Disease In Nonsmokers.

"WARNING: Quitting Smoking Now Greatly Reduces Serious Risks To Your Health.

"(B) ADVERTISING.—It shall be unlawful for any manufacturer or importer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless the advertising bears, in accordance with the requirements of this subsection, one of the following labels:

"WARNING: Cigarettes Are Addictive.

"WARNING: Tobacco Smoke Can Harm Your Children.

"WARNING: Cigarettes Cause Fatal Lung Disease.

"WARNING: Cigarettes Cause Cancer.

"WARNING: Cigarettes Cause Strokes And Heart Disease.

"WARNING: Smoking During Pregnancy Can Harm Your Baby.

"WARNING: Smoking Can Kill You.

"WARNING: Tobacco Smoke Causes Fatal Lung Disease In Nonsmokers.

"WARNING: Quitting Smoking Now Greatly Reduces Serious Risks To Your Health.

"(2) REQUIREMENTS FOR LABELING.—

"(A) LOCATION.—Each label statement required by subparagraph (A) of paragraph (1) shall be located on the upper portion of the front panel of the cigarette package (or carton) and occupy not less than 25 percent of such front panel.

"(B) TYPE AND COLOR.—With respect to each label statement required by subparagraph (A) of paragraph (1), the phrase 'WARNING' shall appear in capital letters and the label statement shall be printed in 17 point type with adjustments as determined appropriate by the Secretary to reflect the length of the required statement. All the letters in the label shall appear in conspicuous and legible type, in contrast by typography, layout, or color with all other printed material on the package, and be printed in an alternating black-on-white and white-on-black format as determined appropriate by the Secretary.

"(C) EXCEPTION.—The provisions of subparagraph (A) shall not apply in the case of a flip-top cigarette package (offered for sale on June 1, 1997) where the front portion of the flip-top does not comprise at least 25 percent of the front panel. In the case of such a package, the label statement required by subparagraph (A) of paragraph (1) shall occupy the entire front portion of the flip top.

"(3) REQUIREMENTS FOR ADVERTISING.—

"(A) LOCATION.—Each label statement required by subparagraph (B) of paragraph (1) shall occupy not less than 20 percent of the area of the advertisement involved.

"(B) TYPE AND COLOR.—

"(i) TYPE.—With respect to each label statement required by subparagraph (B) of paragraph (1), the phrase 'WARNING' shall appear in capital letters and the label statement shall be printed in the following types:

"(I) With respect to whole page advertisements on broadsheet newspaper—45 point type.

"(II) With respect to half page advertisements on broadsheet newspaper—39 point type.

"(III) With respect to whole page advertisements on tabloid newspaper—39 point type.

"(IV) With respect to half page advertisements on tabloid newspaper—27 point type.

"(V) With respect to DPS magazine advertisements—31.5 point type.

"(VI) With respect to whole page magazine advertisements—31.5 point type.

"(VII) With respect to 28cm x 3 column advertisements—22.5 point type.

"(VIII) With respect to 20cm x 2 column advertisements—15 point type.

The Secretary may revise the required type sizes as the Secretary determines appropriate within the 20 percent requirement.

"(ii) COLOR.—All the letters in the label under this subparagraph shall appear in conspicuous and legible type, in contrast by typography, layout, or color with all other printed material on the package, and be printed in an alternating black-on-white and white-on-black format as determined appropriate by the Secretary.

"(4) ROTATION OF LABEL STATEMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the label statements specified in subparagraphs (A) and (B) of paragraph (1) shall be rotated by each manufacturer or importer of cigarettes quarterly in alternating sequence on packages of each brand of cigarettes manufactured by the manufacturer or importer and in the advertisements for each such brand of cigarettes in accordance with a plan submitted by the manufacturer or importer and approved by the Secretary. The Secretary shall approve a plan submitted by a manufacturer or importer of cigarettes which will provide the rotation required by this paragraph and which assures that all of the labels required by subparagraphs (A) and (B) will be displayed by the manufacturer or importer at the same time.

"(B) APPLICATION OF OTHER ROTATION REQUIREMENTS.—

"(i) IN GENERAL.—A manufacturer or importer of cigarettes may apply to the Secretary to have the label rotation described in clause (iii) apply with respect to a brand style of cigarettes manufactured or imported by such manufacturer or importer if—

"(I) the number of cigarettes of such brand style sold in the fiscal year of the manufacturer or importer preceding the submission of the application is less than ¼ of 1 percent of all the cigarettes sold in the United States in such year; and

"(II) more than ½ of the cigarettes manufactured or imported by such manufacturer or importer for sale in the United States are packaged into brand styles which meet the requirements of subclause (I).

If an application is approved by the Secretary, the label rotation described in clause (iii) shall apply with respect to the applicant during the 1-year period beginning on the date of the application approval.

"(ii) PLAN.—An applicant under clause (i) shall include in its application a plan under which the label statements specified in subparagraph (A) of paragraph (1) will be rotated by the applicant manufacturer or importer in accordance with the label rotation described in clause (iii).

"(iii) OTHER ROTATION REQUIREMENTS.—Under the label rotation which the manufacturer or importer with an approved application may put into effect, each of the labels specified in subparagraph (A) of paragraph (1) shall appear on the packages of each brand style of cigarettes with respect to which the application was approved an equal number of times within the 12-month period beginning on the date of the approval by the Secretary of the application.

"(5) APPLICATION OF REQUIREMENT.—Paragraph (1) does not apply to a distributor, a retailer of cigarettes who does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(6) TELEVISION AND RADIO ADVERTISING.—It shall be unlawful to advertise cigarettes and little cigars on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.

"(b) SMOKELESS TOBACCO PRODUCTS.—

"(1) IN GENERAL.—

"(A) PACKAGING.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product the package of which fails to bear, in accordance with the requirements of this subsection, one of the following labels:

"WARNING: This Product Can Cause Mouth Cancer.

"WARNING: This Product Can Kill You.

"WARNING: This Product Can Cause Gum Disease And Tooth Loss.

"WARNING: This Product Is Not A Safe Alternative To Cigarettes.

"WARNING: This Product Contains Cancer-Causing Chemicals.

"WARNING: Smokeless Tobacco Is Addictive.

"(B) ADVERTISING.—It shall be unlawful for any manufacturer or importer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless the advertising bears, in accordance with the requirements of this subsection, one of the following labels:

"WARNING: This Product Can Cause Mouth Cancer.

"WARNING: This Product Can Kill You.

"WARNING: This Product Can Cause Gum Disease And Tooth Loss.

"WARNING: This Product Is Not A Safe Alternative To Cigarettes.

"WARNING: This Product Contains Cancer-Causing Chemicals.

"WARNING: Smokeless Tobacco Is Addictive.

"(2) REQUIREMENTS FOR LABELING.—

"(A) LOCATION.—Each label statement required by subparagraph (A) of paragraph (1) shall be located on the principal display panel of the product and occupy not less than 25 percent of such panel.

"(B) TYPE AND COLOR.—With respect to each label statement required by subparagraph (A) of paragraph (1), the phrase 'WARNING' shall appear in capital letters and the label statement shall be printed in 17 point type with adjustments as determined appropriate by the Secretary to reflect the length of the required statement. All the letters in the label shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the package and be printed in an alternating black on white and white on black format as determined appropriate by the Secretary.

"(3) ADVERTISING AND ROTATION.—The provisions of paragraph (3) and (4)(A) of subsection (a) shall apply to advertisements for smokeless tobacco products and the rotation of the label statements required under paragraph (1)(A) on such products.

"(4) APPLICATION OF REQUIREMENT.—Paragraph (1) does not apply to a distributor or a retailer of smokeless tobacco products who does not manufacture, package, or import such products for sale or distribution within the United States.

"(5) TELEVISION AND RADIO ADVERTISING.—It shall be unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.

"(c) ENFORCEMENT.—Not later than 180 days after the date of the enactment of this title, the Secretary shall promulgate such regulations as may be necessary to enforce subsections (a) and (b).

"(d) INJUNCTIONS.—The several district courts of the United States are vested with jurisdiction, for cause shown, to prevent and restrain violations of this section upon the application of the Secretary in the case of a violation of subsection (a) or (b).

"(e) CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section shall be construed to limit the ability of the Secretary to change the text or layout of any of the warning statements, or any of the labeling provisions, under subsections (a) and (b), if determined necessary by the Secretary.

"(2) UNFAIR ACTS.—Nothing in this section (other than the requirements of subsections (a) and (b)) shall be construed to limit or restrict the authority of the Secretary with respect to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco products.

"(f) LIMITED PREEMPTION.—

"(1) STATE AND LOCAL ACTION.—

"(A) LIMITATION.—No warning label with respect to cigarettes or smokeless tobacco products, other than the warning labels required by subsections (a) and (b), shall be required by any State or local statute or regulation to be included on any package or in any advertisement of cigarettes or a smokeless tobacco product.

"(B) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State or political subdivision of a State from enacting statutes or regulations concerning cigarettes or smokeless tobacco products so long as such statutes or regulations do not conflict with the labeling and advertising requirements of this section or require additional statements on cigarette or smokeless tobacco packages.

"(2) EFFECT ON LIABILITY LAW.—Except as otherwise provided in this section, nothing in this section shall relieve any person from liability at common law or under State statutory law to any other person.

"(g) REPORTS.—.Not later than 1 year after the date of enactment of this chapter, and biennially thereafter, the Secretary shall prepare and submit to Congress a report containing—

"(1) a description of the effects of health education efforts on the use of cigarettes and smokeless tobacco products;

"(2) a description of the use by the public of cigarettes and smokeless tobacco products;

"(3) an evaluation of the health effects of cigarettes and smokeless tobacco products and the identification of areas appropriate for further research; and

"(4) such recommendations for legislation and administrative action as the Secretary considers appropriate.

"(h) EXPORTS.—Packages of cigarettes or smokeless tobacco products manufactured, imported, or packaged—

"(1) for export from the United States; or

"(2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States;

shall be exempt from the requirements of this chapter, but such exemptions shall not apply to cigarettes or smokeless tobacco products manufactured, imported, or packaged for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States.

"(i) APPLICATION.—The Secretary shall exercise the authority provided for in this section notwithstanding the provisions of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 et seq.) and the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401 et seq.).

"SEC. 911. STATEMENT OF INTENDED USE.

"(a) REQUIREMENT.—Each manufacturer, distributor, and retailer advertising or causing to be advertised, disseminating or causing to be disseminated, advertising concerning cigarettes, cigarette tobacco, or smokeless tobacco products otherwise permitted under this chapter shall include, as provided in section 502, the established name of the product and a statement of the intended use of the product as provided for in subsection (b).

"(b) USE STATEMENTS.—

"(1) CIGARETTES.—A statement of intended use for cigarettes or cigarette tobacco is as follows (whichever is appropriate):

"Cigarettes—A Nicotine-Delivery Device for Persons 18 or Older.

"Cigarette Tobacco—A Nicotine-Delivery Device for Persons 18 or Older.

"(2) SMOKELESS TOBACCO.—A statement of intended use for a smokeless tobacco product is as follows (whichever is appropriate):

"Loose Leaf Chewing Tobacco—A Nicotine-Delivery Device for Persons 18 or Older.

"Plug Chewing Tobacco—A Nicotine-Delivery Device for Persons 18 or Older.

"Twist Chewing Tobacco—A Nicotine-Delivery Device for Persons 18 or Older.

"Moist Snuff—A Nicotine-Delivery Device for Persons 18 or Older.

"Dry Snuff—A Nicotine-Delivery Device for Persons 18 or Older.

"(c) TYPE AND LOCATION.—The Secretary shall promulgate regulations with respect to the type, color, size, and placement of statements required under this section on labels and in advertisements.

"SEC. 912. MISCELLANEOUS PROVISIONS.

"(a) PRESERVATION OF STATE AND LOCAL AUTHORITY.—Except as otherwise provided for in this chapter, nothing in this chapter shall be construed as prohibiting a State from imposing requirements, prohibitions, penalties or other measures to further the purposes of this chapter that are in addition to the requirements, prohibitions, or penalties required under this chapter. To the extent not inconsistent with the purposes of this chapter, State and local governments may impose additional tobacco product control measures to further restrict or limit the use of such products by minors.

"(b) REGULATIONS.—The Secretary may promulgate regulations to enforce the provisions of this chapter, or to modify, alter, or expand the requirements and protections provided for in this chapter if the Secretary determines that such modifications, alternations, or expansion is necessary.".

TITLE III—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

SEC. 301. STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended by adding at the end the following:

"SEC. 35. STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

"(a) DEFINITIONS.—In this section—

"(1) PUBLIC FACILITY.—

"(A) IN GENERAL.—The term 'public facility' means any building regularly entered by 10 or more individuals at least 1 day per week, including any such building owned by or leased to a Federal, State, or local government entity. Such term shall not include any building or portion thereof regularly used for residential purposes.

"(B) EXCLUSIONS.—The term 'public facility' does not include a portion of a building which is used as a bar, tobacco merchant, a hotel guest room that is designated as a smoking room, or prison.

"(2) RESPONSIBLE ENTITY.—The term 'responsible entity' means, with respect to any public facility, the owner of such facility except that, in the case of any such facility or portion thereof which is leased, such term means the lessee.

"(b) SMOKE-FREE ENVIRONMENT POLICY.—

"(1) POLICY REQUIRED.—In order to protect children and adults from cancer, respiratory disease, heart disease, and other adverse health effects from breathing environmental tobacco smoke, the responsible entity for each public facility shall adopt and implement at such facility a smoke-free environment policy which meets the requirements of paragraph (2) or (4).

"(2) ELEMENTS OF POLICY.—

"(A) IN GENERAL.—Each smoke-free environment policy for a public facility shall—

"(i) prohibit the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco within the facility and on facility property within the immediate vicinity of the entrance to the facility; and

"(ii) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations at the public facility.

"(B) EXCEPTION.—The smoke-free environment policy for a public facility may provide an exception to the prohibition specified in subparagraph (A) for 1 or more specially designated smoking areas within a public facility if such area or areas meet the requirements of paragraph (3).

"(3) SPECIALLY DESIGNATED SMOKING AREAS.—A specially designated smoking area meets the requirements of this subsection if—

"(A) the area is ventilated in accordance with specifications promulgated by the Secretary of Labor that ensure that air from the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility;

"(B) the area is maintained at negative pressure, as compared to adjoined nonsmoking areas, as determined under regulations promulgated by the Secretary of Labor; and

"(C) nonsmoking individuals do not have to enter the area for any purpose while smoking is occurring in such area.

Cleaning and maintenance work shall be conducted in such area only while no smoking is occurring in the area.

"(4) SPECIAL RULES.—

"(A) SCHOOLS AND OTHER FACILITIES SERVING CHILDREN.—

"(i) IN GENERAL.—With respect to a facility described in clause (ii), the responsible entity for the facility shall adopt and implement at such facility a smoke-free environment policy that—

"(I) prohibits the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco within the facility and on facility property;

"(II) prohibits the use of smokeless tobacco products within the facility and on facility property; and

"(III) post a clear and prominent notice of the smoking and smokeless tobacco prohibition in appropriate and visible locations at the public facility.

"(ii) FACILITY.—A facility described in this clause is—

"(I) an elementary or secondary school (as such term is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);

"(II) any facility at which a Head Start program or project is being carried out under the Head Start Act (42 U.S.C. 9831 et. seq.);

"(III) any facility at which a licensed or certified child care provider provides child care services; and

"(IV) any recreation or other facility maintained primarily to provide services to children as determined by the Secretary or Labor.

"(B) PUBLIC TRANSPORTATION.—With respect to any responsible entity which operates conveyances of public transportation (including bus, rail, aircraft, boat, or any other conveyance determined appropriate by the Secretary of Labor), the responsible entity shall adopt and implement on such conveyances a smoke-free environment policy that—

"(i) prohibits the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco within the conveyance and on property affiliated with the conveyance; and

"(ii) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations on the conveyance.

"(c) ENFORCEMENT.—To be eligible to receive funds under title XXVIII of the Public Health Service Act, a State shall have in effect laws or procedures to provide for the enforcement of this section within the State. Such laws or procedures shall permit aggrieved individuals to enforce this section through administrative or judicial means.

"(d) PREEMPTION.—Nothing in this section shall preempt or otherwise affect any other Federal, State or local law which provides protection from health hazards from environmental tobacco smoke that are as least as stringent as those provided for in this section.

"(e) REGULATIONS.—The Secretary of Labor is authorized to promulgate such regulations as the Secretary deems necessary to carry out this section.

"(f) EFFECTIVE DATE.—The provisions of this section shall take effect on the date that is 1 year after the date of enactment of this section.".

TITLE IV—TOBACCO MARKET TRANSITION ASSISTANCE

SEC. 401. DEFINITIONS.

In this title:

(1) BUYOUT PAYMENT.—The term "buyout payment" means a payment made under section 411, 412, or 413.

(2) CONTRACT.—The term "contract" means a contract entered into under section 411, 412, or 413.

(3) LEASE.—The term "lease" means a rental of quota on either a cash rent or crop share basis.

(4) MARKETING YEAR.—The term "marketing year" means—

(A) in the case of Flue-cured tobacco, the period beginning July 1 and ending the following June 30; and

(B) in the case of each other kind of tobacco, the period beginning October 1 and ending the following September 30.

(5) QUOTA OWNER.—The term "quota owner" means a person that, at the time of entering into a contract, owns quota provided by the Secretary.

(6) PRODUCER OF QUOTA.—The term "producer of quota" means a person that during at least 3 of the 1993 through 1997 crops of tobacco (as determined by the Secretary) that were subject to quota—

(A) leased quota;

(B) shared in the risk of producing a crop of tobacco; and

(C) marketed the tobacco subject to quota.

(7) PRODUCER OF NON-TOBACCO QUOTA.—The term "producer of non-tobacco quota" means a person that during at least 1 of the crop years 1995 through 1997 grew and marketed tobacco not subject to quota.

(8) QUOTA.—The term "quota" means basic marketing quota for tobacco determined by the Secretary under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(9) QUOTA HOLDER.—The term "quota holder" means a producer that owns a farm for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1994, 1995, or 1996 crop years.

(10) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1994, 1995, or 1996 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1994, 1995, or 1996 crop years.

(11) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1994, 1995, or 1996 crop years; and

(B) is not a quota holder or quota lessee.

(12) SECRETARY.—In subtitles A and C, the term "Secretary" means the Secretary of Agriculture.

(13) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(14) TOBACCO.—The term "tobacco" means any kind of tobacco produced and marketed in the United States.

(15) TOBACCO-GROWING STATE.—The term "tobacco-growing State" means Georgia, Kentucky, North Carolina, South Carolina, Tennessee, or Virginia.

(16) TRANSITION PAYMENT.—The term "transition payment" means a payment made to a producer under section 411, 412, or 413.

(17) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

Subtitle A—Tobacco Quota Buyout Contracts and Producer Transition Payments

SEC. 411. QUOTA OWNER BUYOUT CONTRACTS.

(a) OFFER.—The Secretary shall offer to enter into a quota buyout contract with the quota owner on each farm to which a quota was assigned in 1997.

(b) TERMS.—

(1) RELINQUISHMENT OF QUOTA.—Under the terms of the contract, the owner shall agree, in exchange for a buyout payment, to permanently relinquish the quota.

(2) ELIGIBILITY FOR TOBACCO PROGRAM BENEFITS.—Neither the farm, in its current or future ownership configuration, nor the contracting owner shall be eligible for any tobacco program benefits under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.), or the Agricultural Act of 1949 (7 U.S.C. 1421 et. seq.).

(c) PAYMENT CALCULATION.—The total amount of the buyout payment made to a quota owner shall be determined by multiplying—

(1) $4; by

(2) the average quantity of basic quota assigned to the farm during the period 1995 through 1997.

SEC. 412. PRODUCER TRANSITION PAYMENTS FOR QUOTA TOBACCO.

(a) OFFER.—The Secretary shall offer to producers of quota tobacco that do not own the quota, but were quota lessees or quota tenants in 1997, producer transition payment contracts.

(b) TERMS.—Under the terms of the transition contract, the producer shall agree, in exchange for a payment, to permanently refrain from growing tobacco for which a quota program is in effect.

(c) PAYMENT CALCULATION.—The total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4; by

(2) the average quantity of quota tobacco leased or rented from quota owners during the period 1995 through 1997.

SEC. 413. PRODUCER TRANSITION PAYMENTS FOR NON-QUOTA TOBACCO.

(a) OFFER.—The Secretary shall offer to producers of nonquota tobacco a producer nonquota transition payment contract.

(b) TERMS.—Under the terms of the transition payment, the producer shall agree, in exchange for a payment, to permanently refrain from growing tobacco for which a quota program is in effect.

(c) PAYMENT CALCULATION.—The total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4; by

(2) the average annual quantity of nonquota tobacco marketed during the period 1995 through 1997.

SEC. 414. ELEMENTS OF CONTRACTS.

(a) COMMENCEMENT.—To the maximum extent practicable, the Secretary shall commence entering into contracts under this subtitle not later than 90 days after the date of enactment of this Act.

(b) DEADLINE.—The Secretary may not enter into a contract under this subtitle after the date that is 3 years after the date of enactment of this Act.

(c) BEGINNING DATE.—A contract under this subtitle shall take effect and become binding beginning in the tobacco marketing year following the year in which the contract is entered into.

(d) TIME FOR PAYMENT.—A contract payment shall be made not later than the date that is the beginning of the marketing year in which the contract becomes binding, or at any later time selected by the quota owner or producer.

(e) PROHIBITION OF DOUBLE PAYMENTS.—In no case shall a contract holder receive overlapping payments as a quota owner and as a producer on the same tobacco.

Subtitle B—No Net Cost Tobacco Program

SEC. 421. BUDGET DEFICIT ASSESSMENT.

Section 106(g)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445(g)(1)) is amended—

(1) by striking "only for each of the 1994 through 1998 crops" and inserting "for the 1998 and each subsequent crop"; and

(2) by striking "equal to—" and all that follows and inserting "equal to 1 or more amounts determined by the Secretary that are sufficient to cover the costs of the administration of the tobacco quota and price support programs administered by the Secretary.".

Subtitle C—Tobacco Community Empowerment Block Grants

SEC. 431. TOBACCO COMMUNITY EMPOWERMENT BLOCK GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco States in accordance with this section to enable the States to—

(1) empower active tobacco producers and tobacco product manufacturing workers by providing economic alternatives to tobacco; and

(2) carry out non-tobacco economic development initiatives in tobacco communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a tobacco State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each tobacco State an amount that bears the same ratio to the amounts available as the total income of the State derived from the production of tobacco and the manufacture of tobacco products during the 1994 through 1996 marketing years (as determined under paragraph (2)) bears to the total income of all tobacco States derived from the production of tobacco and the manufacturing of tobacco products during the 1994 through 1996 marketing years.

(2) TOBACCO INCOME.—For the 1994 through 1996 marketing years, the Secretary shall determine the amount of income derived from the production of tobacco and the manufacture of tobacco products in each tobacco State and in all tobacco States.

(d) PAYMENTS.—

(1) IN GENERAL.—A tobacco State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a

tobacco State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a tobacco State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other tobacco States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a tobacco State under this section shall be used to carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to active tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) investments in community colleges and trade schools to provide skills training to active tobacco producers and tobacco product manufacturing workers and ensure that the off-farm sector remains vital and robust.

(2) TOBACCO COUNTIES.—Assistance may be provided by a tobacco State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco and the manufacture of tobacco products during 1 or more of the 1994 through 1996 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a tobacco State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a tobacco State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO COUNTIES.—To be eligible to receive payments under this section, a tobacco State shall demonstrate to the Secretary that funding will be provided, during the 1999 through 2004 fiscal years, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco and the manufacture of tobacco products, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production and tobacco product manufacturing income in the county determined under paragraph (2) bears to the total tobacco production and tobacco product manufacturing income for the State determined under subsection (c); by

(ii) 50 percent of the total amounts received by the State under this section during the 1999 through 2004 fiscal years.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SENSE OF THE SENATE.

It is the sense of the Senate that, in order to provide funds to carry out this Act, Congress should enact an increase in the excise taxes on tobacco products of approximately $1.50 per pack of cigarettes (and corresponding increases on taxes on other tobacco products) over a 3-year period, that increases in such tax in future years should be indexed to inflation, and that the payment of such tax should not be considered to be an ordinary and necessary expense in carrying on a trade or business and should not be deductible.

Mr. LAUTENBERG. Mr. President, today I am joining Senators KENNEDY and DURBIN in introducing the Healthy and Smoke-free Children Act of 1997. Likewise, Senators KENNEDY and DURBIN are cosponsoring legislation I introduced last week, the Public Health and Education Resource Act, S. 1343, or PHAER. As we join forces behind comprehensive tobacco legislation to reduce smoking, especially among our young people, and to enhance the public health, we urge Senators of both parties to unify behind our approach. It is a simple and straightforward but effective model for drastically reducing the 400,000 preventable deaths each year in our country caused by a deadly addiction to nicotine.

Mr. President, it's time for Congress to act. We have the legislative packages to get started. The message we are sending out today is clear: the goal of comprehensive tobacco legislation is to prevent kids from becoming hooked on tobacco—not to get the tobacco companies off the hook.

Our legislation would raise the price of cigarettes by $1.50 per pack in order to reduce teen smoking and fund critical public health programs. It explicitly prohibits the industry from deducting the cost of increased excise taxes from its corporate tax payments. With the proceeds of the tax, states will receive back funds for public health and children's programs, including health, education, and smoking cessation programs aimed at both children, teenagers, and adults. Further, our bill will fund a significant increase in medical research. To increase industry incentives to reduce teen smoking, the legislation we are introducing today will impose penalties on companies which fail to meet teen smoking reduction targets. Finally, recognizing the potential dislocation to tobacco farmers that could flow from a reduction in national smoking rates, our bill provides transitional assistance to farmers and displaced tobacco workers.

Mr. President, of critical importance, our legislation affirms the authority of the Food and Drug Administration to regulate tobacco as a drug and drug delivery device. It gives FDA explicit authority over the advertising, marketing and sale of cigarettes. It also calls for larger and more explicit warning labels on cigarettes and ingredient disclosure, drawing on legislation I introduced earlier this year, and permits states to enact more restrictions on tobacco. It also incorporates the essence of the Smokefree Environment Act which I also introduced earlier this year, to protect non-smokers from secondhand smoke.

The President has called for comprehensive tobacco legislation that gives the Food and Drug Administration authority to regulate nicotine. He has also called for a $1.50 increase in the price of cigarettes to deter teen smoking and help pay for a variety of public health programs. Our legislation accomplishes that.

Mr. President, the tobacco industry has been trying to convince the Congress and the public that the only way to accomplish the President's goals is through its proposed settlement with the state Attorneys General. We know that this is not the case. Our legislation offers a more efficient and effective way of serving the public health. The Congress can move ahead without permission from the tobacco industry and we should do just that.

Mr. President, our proposals embody the goals outlined by the President and embraced by the public health community. In fact, a broad range of groups supported the introduction of S. 1343, the PHAER Act, when I introduced it. These groups include Action on Smoking and Health, the American Academy of Pediatrics, the American Cancer Society, the American College of Physicians, the American College of Preventive Medicine, the American Heart Association, the American Lung Association, the American Medical Association, the American Society of Clinical Oncology, Campaign for Tobacco Free Kids, the National Association of Counties, the National Association of County and City Health Officials, and Partnership for Prevention and Physicians for Social Responsibility.

Mr. President, these bills eliminate the tobacco industry as the middleman in achieving public health goals. We

have laid out an ambitious, but achievable, program for reducing smoking and death and illness. Congressional action on comprehensive tobacco legislation should live up to the standards we have established.

Beyond taking strong, preventive steps to reduce smoking domestically, we should also pursue legislation affecting our tobacco companies' commercial activities overseas. If we don't, in the next few decades we will experience a worldwide health epidemic attributable to tobacco. Earlier this year, I introduced S. 1060, the Worldwide Tobacco Disclosure Act, to require warning labels on exported packages of cigarettes and to codify current trade policies that prevent government agencies from promoting tobacco sales overseas and from weakening public health measures undertaken by foreign governments.

I urge my colleagues on both sides of the aisle to join us on the public health side of this fight by endorsing our comprehensive tobacco legislation.

Mr. DURBIN. Mr. President, I am pleased to join Senators KENNEDY and LAUTENBERG in proposing sweeping new legislation that fills in many of the specifics relating to children and the public health that must be included in any future legislation related to the proposed tobacco settlement.

The tobacco companies have made billions of dollars addicting and exploiting our children. Now, they seek to protect themselves from existing and potential lawsuits. This legislation brings us back to the fundamental issues that must stay at the top of the public health agenda. Reducing the devastation and disease caused by tobacco should be our number one goal, not an afterthought.

This legislation is our effort to start filling in the blanks on any tobacco measure. It's time to stop speculating and start laying down markers we feel must be part of any comprehensive agreement.

Under this legislation, the tobacco tax would be raised $1.50 per pack of cigarettes. This kind of increase is a proven deterrent to underage smoking.

Of the additional revenues that would be raised beyond what was proposed by the state attorneys general, one-half would be used to fund medical research into illnesses such as cancer, heart disease and diabetes. The other half of the additional revenues would fund an expansion of the Head Start program, child care grants, and other child and family initiatives.

The legislation seeks to ensure a significant decline in underage smoking by establishing tough performance smoking reduction targets. The reduction targets—modeled on legislation I introduced earlier this year—set a goal of a 40 percent reduction in youth tobacco use in four years, 60 percent in 6 years, and 80 percent in 10 years. If the goal is not met, penalties of up to $1 a pack will be imposed on the sale of tobacco products manufactured by a company whose products are consumed by underage users, with steeper penalties for repeated failure to meet youth tobacco targets.

In addition, we are offering some new incentives for the tobacco companies to meet the targets. If a company fails to comply for three or more consecutive years, the company will be required to stop selling cigarettes in single packs—the size kids buy—and start selling them only in cartons, whose price might cause kids to reconsider their desire to buy cigarettes. If this step was not sufficient to bring a company into compliance, another year violating the performance standard would trigger a requirement that the product be sold using generic packaging, without catchy logos.

As far as kids are concerned, it's time for the tobacco companies to put their profits on the line. Under our legislation, every new child who picks up a cigarette or pockets a can of spit tobacco will become an economic loss to a tobacco company. We must hold each company individually responsible for its sales to minors.

In addition to setting performance standards, the legislation provides for a national tobacco use reduction program which includes smoking cessation programs, media-based advertising about the dangers of tobacco use and aggressive public education.

The bill also compensates states for Medicaid expenditures resulting from tobacco-related illnesses; affirms the authority of the Food and Drug Administration [FDA] to regulate tobacco as a drug and delivery device; mandates strong warning labels and ingredient disclosures; reduces exposure to secondhand smoke; prohibits tobacco companies from deducting any settlement liabilities as a business expense; and provides assistance for tobacco farmers.

I commend this legislation to my colleagues and urge them to support it.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the name of the Senator from Michigan [Mr. ABRAHAM] 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. 318

At the request of Mr. D'AMATO, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 318, a bill to amend the Truth in Lending Act to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes.

S. 773

At the request of Mr. DURBIN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 773, a bill to designate certain Federal lands in the State of Utah as wilderness, and for other purposes.

S. 778

At the request of Mr. ABRAHAM, his name was added as a cosponsor of S. 778, a bill to authorize a new trade and investment policy for sub-Saharan Africa.

S. 1151

At the request of Mr. DODD, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 1151, a bill to amend subpart 8 of part A of title IV of the Higher Education Act of 1965 to support the participation of low-income parents in postsecondary education through the provision of campus-based child care.

S. 1195

At the request of Mr. CHAFEE, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 1195, a bill to promote the adoption of children in foster care, and for other purposes.

S. 1307

At the request of Mr. DASCHLE, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1307, a bill to amend the Employee Retirement Income Security Act of 1974 with respect to rules governing litigation contesting termination or reduction of retiree health benefits and to extend continuation coverage to retirees and their dependents.

SENATE CONCURRENT RESOLUTION 49

At the request of Mr. ABRAHAM, his name was added as a cosponsor of Senate Concurrent Resolution 49, a concurrent resolution authorizing use of the Capitol Grounds for "America Recycles Day" national kick-off campaign.

SENATE CONCURRENT RESOLUTION 66—TO CORRECT THE ENROLLMENT OF S. 399

Mr. MCCAIN submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 66

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 399), to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes, the Clerk of the Senate shall make the following correction in section 10 of the Morris K. Udall Scholarship

and Excellence in National Environmental and Native American Public Policy Act of 1992 (as amended by section 6 of the bill): Strike subsection (c) and insert the following:

"(c) NOTIFICATION AND CONCURRENCE.—

"(2) NOTIFICATION.—An agency or instrumentality of the Federal Government shall notify the chairperson of the President's Council on Environmental Quality when using the Foundation or the Institute to provide the services described in subsection (a).

"(3) NOTIFICATION DESCRIPTIONS.—In a matter involving 2 or more agencies or instrumentalities of the Federal Government, notification under paragraph (1) shall include a written description of—

"(A) the issues and parties involved;

"(B) prior efforts, if any, undertaken by the agency to resolve or address the issue or issues;

"(C) all Federal agencies or instrumentalities with a direct interest or involvement in the matter and a statement that all Federal agencies or instrumentalities agree to dispute resolution; and

"(D) other relevant information.

"(3) CONCURRENCE.—

"(A) IN GENERAL.—In a matter that involves 2 or more agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality), the agencies or instrumentalities of the Federal Government shall obtain the concurrence of the chairperson of the President's Council on Environmental Quality before using the Foundation or Institute to provide the services described in subsection (a).

"(B) INDICATION OF CONCURRENCE OR NONCONCURRENCE.—The chairperson of the President's Council on Environmental Quality shall indicate concurrence or nonconcurrence under subparagraph (A) not later than 20 days after receiving notice under paragraph (2).

"(d) EXCEPTIONS.—

"(1) LEGAL ISSUES AND ENFORCEMENT.—

"(A) IN GENERAL.—A dispute or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) that concern purely legal issues or matters, interpretation or determination of law, or enforcement of law by 1 agency against another agency shall not be submitted to the Foundation or Institute.

"(B) APPLICABILITY.—Subparagraph (A) does not apply to a dispute or conflict concerning—

"(i) agency implementation of a program or project;

"(ii) a matter involving 2 or more agencies with parallel authority requiring facilitation and coordination of the various government agencies; or

"(iii) a nonlegal policy or decisionmaking matter than involves 2 or more agencies that are jointly operating a project.

"(2) OTHER MANDATED MECHANISMS OR AVENUES.—A dispute or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) for which Congress by law has mandated another dispute resolution mechanism or avenue to address or resolve shall not be submitted to the Foundation or Institute.".

SENATE RESOLUTION 148—DESIGNATING 1998 AS THE "ONATE CUARTOCENTENARIO"

Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 148

Whereas Don Juan de Oñate of Spain settled the first permanent colony of Europeans in the Southwest Region of the United States, known as San Gabriel de Los Españoles, and located near modern day San Juan Pueblo and Española, New Mexico;

Whereas the first Spanish capital was established at San Juan de los Caballeros in July of 1598, predating the English settlement of Jamestown in 1610 by 12 years;

Whereas Spanish exploration activity in the New World began in 1512 when Ponce de León explored the Florida peninsula, and included the explorations of Francisco Coronado throughout California to Kansas and across Arizona, New Mexico, Texas, and Oklahoma from 1540 to 1542;

Whereas the major Spanish settlement efforts were focused in modern day Florida and New Mexico, and 1998 marks the 400th anniversary of the first permanent settlement in New Mexico, referred to as the *Cuartocentenario*;

Whereas Hispanic Americans are the fastest growing minority group in the United States and include descendants of the Spanish, Mexican, Cuban, Puerto Rican, Central American, and other Hispanic peoples;

Whereas the United States Census Bureau estimated in March 1993 that the Hispanic population of the United States was 22,800,000; the current estimate of the hispanic population in the United States is 26,000,000, with projections of 30,000,000 by the year 2000, 40,000,000 by 2010, and almost 60,000,000 (or 20 percent of the total United States population) by the year 2030;

Whereas the number of Hispanic immigrants to the United States has increased from 1,500,000 in the 1960's, to 2,400,000 in the 1970's, to 4,500,000 in the 1980's, and the number of Hispanic immigrants is expected to continue to rise;

Whereas two-thirds of all Hispanics in the United States today are of Mexican origin, and 70 percent of United States Hispanics live in 4 States: California, Texas, New York, and Florida;

Whereas New Mexico's Hispanic population is 39 percent (or over 660,000 of the 1995 total State population of 1,700,000) and represents the highest percentage of Hispanics in any State in the United States;

Whereas the United States has an enriched legacy of Hispanic influence in politics, government, business, and culture due to the early settlements and continuous influx of Hispanics into the United States;

Whereas the New Mexico State Government has funded a Hispanic Cultural Center in Albuquerque, New Mexico, with assistance from the Federal Government, local governments, and private contributions, to celebrate and preserve Hispanic culture including literature, performing arts, visual arts, music, culinary arts, and language arts;

Whereas the Archbishop of Santa Fe, Michael Sheehan, is planning events throughout 1998 in New Mexico, including the opening of "Jubilee year", an encuentro at Santo Domingo Pueblo to mark the meeting of the missionaries with the Pueblo peoples, an Archdiocesan reconciliation service at the Santuario de Chimayo, and an Archdiocesan celebration of St. Francis of Assisi in Santa Fe;

Whereas in order to commemorate Don Juan de Oñate's arrival, the city of Española will have a fiesta in July 1998, the city of Santa Fe is planning several special events, and the New Mexico statewide committee is planning a parade, a historical costume ball, and a pageant in Albuquerque; and

Whereas many other religious, educational, and social events are being planned around New Mexico to commemorate the 400th anniversary of the first permanent Spanish settlement in New Mexico: Now, therefore, be it

Resolved, That the Senate—

(1) designates the year 1998 as the "*Oñate Cuartocentenario*" to commemorate the 400th anniversary of the first permanent Spanish settlement in New Mexico;

(2) recognizes the cultural and economic importance of the Spanish settlements throughout the Southwest Region of the United States;

(3) expresses its support for the work of the Española Plaza Foundation, the Santa Fe and Albuquerque Cuartocentenario committees, the Archdiocese of Santa Fe, the New Mexico Hispanic Cultural Center Board of Directors, the Hispanic Cultural Foundation Board of Trustees, as well as other interested groups that are preparing *Oñate Cuartocentenario* activities;

(4) expresses its support for the events to be held in New Mexico and the Southwest in observance of the *Oñate Cuartocentenario;*

(5) requests that the President issue a proclamation—

(A) declaring 1998 as the "*Oñate Cuartocentenario*" to commemorate the 400th anniversary of the first permanent Spanish settlement in New Mexico; and

(B) calling on the people of the United States and interested groups to observe the year with appropriate ceremonies, activities, and programs to honor and celebrate the contributions of Hispanic people to the cultural and economic life of the United States; and

(6) calls upon the people of the United States to support, promote, and participate in the many *Oñate Cuartocentenario* activities being planned to commemorate the historic event of the early settling of the Southwest Region of the United States by the Spanish.

Mr. DOMENICI. Mr. President, next year, 1998, is the 400th anniversary of Don Juan de Onate's establishment of the first Hispanic colony in New Mexico. In July 1589, he and a few Spanish families settled near modern day San Juan Pueblo and the city of Espanola in northern New Mexico.

New Mexico will be the center of many exciting events throughout the year to commemorate this extremely important historic milestone. Four hundred years ago Western civilization found itself ensconced in northern New Mexico, and since that time to the present it has been there and part of the culture and part of the value system in the State of New Mexico.

New Mexico will be the center of many exciting events throughout the year to commemorate this important historic milestone. New Mexicans are looking forward to fiestas, balls, parades, and other stimulating events to mark this historic occasion.

The Archbishop of Santa Fe will be opening a Jubilee year in January. Among other events, he will hold an encuentro at Santo Domingo Pueblo to mark the meeting of the missionaries with the Pueblo Peoples.

The city of Española will have a fiesta in July to commemorate the actual arrival of the Spanish into the area. Santa Fe, Las Vegas, Taos, Albuquerque, and other New Mexico towns and cities will be holding such special events as fiestas, historic reenactments, a State Fair Pageant, an historic Spanish costume ball, and parades. Seminars and lectures will abound.

State Fair pageant plans include a reenactment of De Vargas' reentry into New Mexico, a review of the Pueblo Revolt and its ramifications, life under the American flag during the middle to late 1800's, and a patriotic tribute to all Hispanics who have fought for the United States. This two and a half-hour spectacular will be performed twice before a large audience. It will also be televised.

This resolution also asks the President to issue a proclamation declaring 1998 is a year to commemorate the arrival of Hispanics and celebrate their growth in importance in our Nation's culture and economy. An estimated 26 million Hispanics in the United States today make up about 11 percent of our population. In New Mexico, Hispanics make up 39 percent of the population, the largest percentage of any State.

Some projections indicate that by the year 2010, Hispanics will number about 40 million, and by the year 2030, an estimated 60 million Hispanics will be living in the United States, making up about one-fifth of the total population.

As Hispanic culture continues to grow as a major influence in the United States, the State of New Mexico is creating a major Hispanic Cultural Center in Albuquerque to celebrate and preserve Hispanic arts, literature, performing arts, music, visual arts, culinary arts and other cultural treasures. We are hoping that this Hispanic Cultural Center will become a successful economic venture to attract tourism and to bring national and international attention to Hispanic life in the American Southwest.

The Cuartocentenario, know in English as the 400th Anniversary, is a time for America to take note of the profound influence of Hispanics in the founding of America as a New World as well as the participation of Hispanics in all walks of life. Hispanics have been noteworthy contributors and will continue to be significant contributors to our national politics, science, arts, economy, and cultural life.

Mr. President, 1998 is a major milestone for the Spanish settlement in the Southwestern United States. I urge my colleagues to join me in commemorating this important anniversary by supporting this resolution and participating in Hispanic events to mark this important year.

SENATE RESOLUTION 149—REGARDING THE STATE VISIT TO THE UNITED STATES OF THE PRESIDENT OF THE PEOPLE'S REPUBLIC OF CHINA

Mrs. FEINSTEIN (for herself, Mr. THOMAS, Mr. KERRY, Mr. SMITH of Oregon, Mrs. MURRAY, Mr. HAGEL, Mr. GRAMS, Mr. ROBB, and Mr. ROTH) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 149

Whereas, the ability of the United States and the People's Republic of China to avoid conflict, to cooperate, and to act as partners rather than adversaries has a substantial bearing on peace and stability in Asia and worldwide;

Whereas on October 28–30, 1997, President Jiang Zemin of the People's Republic of China conducted a state visit to Washington, DC;

Whereas the state visit included meetings with President Bill Clinton, Secretary of State Madeleine Albright, and the Congressional leadership;

Whereas, in connection with the state visit, china gave clear assurances that it will conduct no new nuclear cooperation with Iran, reiterated its commitment not to assist unsafeguarded nuclear facilities, joined the Zangger Committee, and promulgated national regulations to control exports of nuclear material, equipment and technology;

Whereas, President Clinton announced his intention to certify that China has met the conditions necessary to implement the 1985 Agreement for Cooperation Between the Government of the United States and the Government of the People's Republic of China Concerning the Peaceful Uses of Nuclear Energy;

Whereas China agreed to allow a delegation of American religious leaders to conduct a fact-finding mission on religious freedom in China, to resume a project of accounting for prisoners, and to conduct preparatory talks on establishing a Non-Governmental Organization forum on human rights;

Whereas the United States and China agreed to conduct regular summit, cabinet-level, and sub-cabinet level meetings in their respective capitals, and agreed to the establishment of a direct telephone link between the two Presidents;

Whereas the United States and China agreed to increase contacts between their respective militaries in order to avoid incidents at sea between their naval forces, and to coordinate their responses to humanitarian crises;

Whereas the United States and China agreed to increase cooperation aimed at promoting the rule of law in China, including training judges and lawyers, drafting legal codes, and developing due process of law;

Whereas the United States and China agreed to expand their cooperation in law enforcement efforts, including by stationing officers of the United States Drug Enforcement Administration in the United States Embassy in Beijing;

Whereas the United States and China have agreed to cooperate on developing clean energy projects in China through the use of United States products and technology;

Whereas despite some significant achievements reached during the state visit of President Hiang Zemin, many significant concerns and problems remain in the U.S.-China relationship;

Whereas the United States continues to have serious concerns about the human rights policies and practices of the People's Republic of China, including the imprisonment of Wei Jingsheng, Wang Dan, and other dissidents, limitations on the free practice of religion, harsh population control measures (including isolated reports of forced abortion), the use of prison labor to produce cheap consumer goods, the continuing suppresson of the people of Tibet, and the refusal of China's leadership to meet with the Dalai Lama;

Whereas the United States continues to have deep concerns about reports of exports from China of nuclear, chemical, and ballistic missile technology, and advanced conventional weapons, to countries who are known proliferators, such as Iran and Pakistan;

Whereas the United States continues to seek from the People's Republic of China measures to reduce the growing trade imbalance between the United States and China, including access to China's markets for United States products and services;

Whereas the United States believes it is imperative that the People's Republic of China commit to resolving the Taiwan question by exclusively peaceful means, and that both sides should resume a Cross-Straits dialogue as soon as possible;

Whereas the recently concluded U.S.-China summit is part of President Clinton's articulated policy of engagement with the People's Republic of China, a central goal of which is to further draw the People's Republic of China into the international community and toward internationally recognized standards of behavior; and

Whereas President Clinton accepted President Jiang's invitation to make a return visit to the People's Republic of China in 1998: Now, therefore, be it

Resolved, That the Senate—

(1) welcomes the agreements and understanding reached by the United States and the People's Republic of China during the state visit of President Jiang Zemin;

(2) urges the President to continue to press vigorously for further progress in China's policies and practices in the areas of human rights, nonproliferation, trade, Tibet, and Taiwan;

(3) views the expected return visit to the People's Republic of China in 1998 by President Clinton as an opportunity for the United States and the People's Republic of China to advance their relationship by enhancing cooperation in areas of accord and making genuine progress toward resolving areas of disagreement.

Mrs. FEINSTEIN. Madam President, today I am joined by a bipartisan group of my colleagues in submitting a resolution that expresses support for the agreements reached at the recent summit between President Clinton and President Jiang Zemin of the People's Republic of China.

As the resolution makes clear, the United States and China did not come to agreement on every issue that divides us during the summit. Significant, even fundamental differences remain in some areas, particularly in the area of human rights. But there is no question that the summit was a positive step forward in building a cooperative partnership between the largest developed country and the largest developing country on earth.

The summit has, of course, occasioned a vigorous debate on the United States' policy toward China. It seems to me that the key to a successful China policy is to be able to encourage this large nation to take its place in the world as a stable, responsible leader that can help ensure peace and stability in Asia and the world.

The question is how to do this? Our choices seem to boil down to two:

Some say we should contain China, prevent its rise, and isolate it from the world community. We should recognize it as an adversary.

Others—myself and the cosponsors of this resolution included—say we should engage China, understand that our relationship is complex, develop a strategic partnership where we have like interests, and through intensive communication try to achieve common ground.

Last week's summit was, in my view, the beginning of a course of ongoing top level dialogue and diplomacy.

It showed that we must deal with China on the top levels. Prior to last week, our two presidents had had little communication. There was no red telephone, no way for the leaders to speak. Our dialogue was sporadic, and took place on second and third levels.

Was the summit a success? Yes. It was definitely more than just a series of photo-ops. It accomplished progress and concrete results which bear explicit restatement.

First, the summit established the ability of two country's leaders to talk with each other. They have resolved to engage in ongoing communication, conduct regular summit meetings—indeed, President Clinton will go to China next year—and the establishment of a telephone hotline.

This high-level communication is important, because Beijing does not always know what all its ministries are doing. Our intelligence can help bring it to their attention, as was the case when Chinese companies shipped ring magnets to Pakistan. U.S. intelligence also helped China shut down a number of illegal CD factories.

Second, the summit produced a very important nuclear non-proliferation agreement. China committed that it would engage in no new export of nuclear technology, expertise, or equipment to Iran. This is in addition to China having already signed the N.P.T., the Comprehensive Test Ban Treaty, the CWC, and its commitment to abide by the Missile Technology Control Regime and its annexes. China also agreed to participate in multi-lateral efforts to control and monitor the export of nuclear materials. In exchange we have agreed to allow the export of peaceful nuclear energy technology to China.

Third, the summit led to several extremely useful military-to-military agreements. Two two sides agreed to expand military-to-military exchanges, including at the Secretary of Defense level, and to establish communications links to avoid accidental incidents at sea between the our navies.

Fourth, the summit produced agreements aimed at increasing U.S.-China cooperation on law enforcement. China agreed to the stationing of two DEA agents at the U.S. Embassy in Beijing, and we will expand our cooperation in combating organized crime, counterfeiting, alien smuggling, and money laundering.

Fifth, the two sides reached agreements aimed at improving China's energy usage and decreasing its pollution problem. The United States and China will engage in a cooperative effort—using U.S. technology to work on China's serious urban air pollution problem, and to provide electricity to rural villages.

Sixth, in perhaps the most important contribution we can make to the cause of human rights in China, the two sides agreed on a number of measures aimed at promoting the rule of law in China. The United States and China will engage in a joint effort in developing the rule of law in China. It will involve the training of judges and lawyers, exchanges of legal experts, and assistance to China in drafting new criminal, civil, and commercial codes.

Seventh, even in the area of human rights, there were some modest gains. I emphasize "modest" because we still have fundamental differences with the Chinese on human rights. What we see as issues of basic human freedom and dignity, the regard as their "internal affairs," with deep implications for China's stability and unity.

America's position was clearly put forward—by the President, by Members of Congress, and by the many demonstrations that followed President Jiang around. I believe Chinese leaders may now have an understanding of the depth of feeling about human rights issues in the United States in a way they could not have known before the visit.

Nevertheless, there was some limited progress. China agreed to receive a group of religious leaders from the U.S. to conduct fact-finding on religious freedom. China also agreed to resume a prisoner accounting project run by a businessman and human rights activist, John Kamm. In addition, China agreed to the establishment of a non-governmental organization human rights forum. Preparatory sessions will be held soon. And just prior to the summit, China signed the U.N. Covenant on Economic, Social, and Cultural Rights, which obligates parties to promote these rights in their countries.

Clearly, there were also major disappointments on human rights. There was no release of dissidents, and no comment that indicated any new thinking on Tiananmen Square. On Tibet, China clings to old and discredited arguments and has been non-committal on all overtures for talks with the Dalai Lama, and the repression in Tibet continues.

But even with the disappointments, things are changing in China. No large country has changed as much as China has in the last 30 years since the end of cultural revolution. Today there is a freer lifestyle, an improved standard of living, and much greater educational opportunities. There is a greater openness, and tremendous economic development. There is also a gradual lowering of tariffs and opening of borders.

Our relationship with China is not without its strains. Taiwan, for example remains the number one issue of sensitivity for China. The Chinese view it as a fundamental issue of sovereignty. I think the Administration understands this, and is firmly committed to the One China policy.

But otherwise, all issues remain negotiable and subject to the enterprise of diplomacy conducted at the highest levels. In this regard, the summit was definitely a step forward. For that reason, my colleagues and I submit this resolution to recognize the achievements of the summit, and to express our support for President Clinton's intention to make a return visit to China next year.

AMENDMENTS SUBMITTED

THE RECIPROCAL TRADE AGREEMENT ACT OF 1997

REED AMENDMENT NO. 1613

Mr. REED proposed an amendment to the bill (S. 1269) to establish objectives for negotiating and procedures for implementing certain trade agreements; as follows:

Amend section 2(b) after section 2(b)(15) to add the following new paragraph:

(16) The principal negotiating objective of the United States regarding the environment is to promote adherence to internationally recognized environmental standards.

Amend section 10 at the end, to add the following new definition:

(7) Internationally Recognized Environmental Standards—The term "internationally recognized environmental standards" includes—

(A) mitigation of global climate change;

(B) reduction in the consumption and production of ozone-depleting substances;

(C) reduction in ship pollution of the oceans from such sources as oil, noxious bulk liquids, hazardous freight, sewage, and garbage;

(D) a ban on international ocean dumping of high-level radioactive waste, chemical warfare agents, and hazardous substances;

(E) government control of the transboundary movement of hazardous waste materials and their disposal for the purpose of reducing global pollution on account of such materials;

(F) preservation of endangered species;
(G) conservation of biological diversity;
(H) promotion of biodiversity; and
(I) preparation of oil-spill contingency plans.

THE ADOPTION PROMOTION ACT OF 1997

CRAIG AMENDMENT NO. 1614

Mr. CRAIG proposed an amendment to the bill (H.R. 867) to promote the adoption of children in foster care; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Promotion of Adoption, Safety, and Support for Abused and Neglected Children (PASS) Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—REASONABLE EFFORTS AND SAFETY REQUIREMENTS FOR FOSTER CARE AND ADOPTION PLACEMENTS
Sec. 101. Clarification of the reasonable efforts requirement.
Sec. 102. Including safety in case plan and case review system requirements.
Sec. 103. Multidisciplinary/multiagency child death review teams.
Sec. 104. States required to initiate or join proceedings to terminate parental rights for certain children in foster care.
Sec. 105. Notice of reviews and hearings; opportunity to be heard.
Sec. 106. Use of the Federal Parent Locator Service for child welfare services.
Sec. 107. Criminal records checks for prospective foster and adoptive parents and group care staff.
Sec. 108. Documentation of efforts for adoption or location of a permanent home.
TITLE II—INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR CHILDREN
Sec. 201. Adoption incentive payments.
Sec. 202. Adoptions across State and county jurisdictions.
Sec. 203. State performance in protecting children.
TITLE III—ADDITIONAL IMPROVEMENTS AND REFORMS
Sec. 301. Expansion of child welfare demonstration projects.
Sec. 302. Permanency planning hearings.
Sec. 303. Kinship care.
Sec. 304. Clarification of eligible population for independent living services.
Sec. 305. Reauthorization and expansion of family preservation and support services.
Sec. 306. Health insurance coverage for children with special needs.
Sec. 307. Continuation of eligibility for adoption assistance payments on behalf of children with special needs whose initial adoption has been disrupted.
Sec. 308. State standards to ensure quality services for children in foster care.
TITLE IV—MISCELLANEOUS
Sec. 401. Preservation of reasonable parenting.
Sec. 402. Reporting requirements.
Sec. 403. Sense of Congress regarding standby guardianship.
Sec. 404. National Voluntary Mutual Reunion Registry.
Sec. 405. Reduction in medicaid matching rate for skilled professional medical personnel.
TITLE V—EFFECTIVE DATE
Sec. 501. Effective date.

TITLE I—REASONABLE EFFORTS AND SAFETY REQUIREMENTS FOR FOSTER CARE AND ADOPTION PLACEMENTS

SEC. 101. CLARIFICATION OF THE REASONABLE EFFORTS REQUIREMENT.

(a) IN GENERAL.—Section 471(a)(15) of the Social Security Act (42 U.S.C. 671(a)(15)) is amended to read as follows:

"(15) provides that—

"(A) in determining reasonable efforts, as described in this section, the child's health and safety shall be the paramount concern;

"(B) reasonable efforts shall be made to preserve and reunify families—

"(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home when the child can be cared for at home without endangering the child's health or safety; or

"(ii) to make it possible for the child to safely return to the child's home;

"(C) reasonable efforts shall not be required on behalf of any parent—

"(i) if a court of competent jurisdiction has made a determination that the parent has—

"(I) committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

"(II) committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

"(III) aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter; or

"(IV) committed a felony assault that results in serious bodily injury to the child or another child of the parent;

"(ii) if a court of competent jurisdiction determines that returning the child to the home of the parent would pose a serious risk to the child's health or safety (including but not limited to cases of abandonment, torture, chronic physical abuse, sexual abuse, or a previous involuntary termination of parental rights with respect to a sibling of the child); or

"(iii) if the State, through legislation, has specified cases in which the State is not required to make reasonable efforts because of serious circumstances that endanger a child's health or safety;

"(D) if reasonable efforts of the type described in subparagraph (B) are not made as a result of a determination made by a court of competent jurisdiction in accordance with subparagraph (C)—

"(i) a permanency planning hearing (as described in section 475(5)(C)) shall be held for the child within 30 days of such determination; and

"(ii) reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child; and

"(E) reasonable efforts to place a child for adoption or with a legal guardian or custodian may be made concurrently with reasonable efforts of the type described in subparagraph (B);".

(b) CONFORMING AMENDMENT.—Section 472(a)(1) of such Act (42 U.S.C. 672(a)(1)) is amended by inserting "for a child" before "have been made".

(c) RULE OF CONSTRUCTION.—Nothing in part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.), as amended by this Act, shall be construed as precluding State courts from exercising their discretion to protect the health and safety of children in individual cases, when such cases do not include aggravated circumstances, as defined by State law.

SEC. 102. INCLUDING SAFETY IN CASE PLAN AND CASE REVIEW SYSTEM REQUIREMENTS.

Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended—

(1) in section 422(b)(10)(B) (as redesignated by section 5592(a)(1)(A)(iii) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 644))—

(A) in clause (iii)(I), by inserting "safe and" after "where"; and

(B) in clause (iv), by inserting "safely" after "remain"; and

(2) in section 475—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting "safety and" after "discussion of the"; and

(ii) in subparagraph (B)—

(I) by inserting "safe and" after "child receives"; and

(II) by inserting "safe" after "return of the child to his own"; and

(B) in paragraph (5)—

(i) in subparagraph (A), in the matter preceding clause (i), by inserting "a safe setting that is" after "placement in"; and

(ii) in subparagraph (B)—

(I) by inserting "the safety of the child," after "determine"; and

(II) by inserting "and safely maintained in" after "returned to".

SEC. 103. MULTIDISCIPLINARY/MULTIAGENCY CHILD DEATH REVIEW TEAMS.

(a) STATE CHILD DEATH REVIEW TEAMS.—Section 471 of the Social Security Act (42 U.S.C. 671) is amended by adding at the end the following:

"(c)(1) In order to investigate and prevent child death from fatal abuse and neglect, not later than 2 years after the date of the enactment of this subsection, a State, in order to be eligible for payments under this part, shall submit to the Secretary a certification that the State has established and is maintaining, in accordance with applicable confidentiality laws, a State child death review team, and if necessary in order to cover all counties in the State, child death review teams on the regional or local level, that shall review child deaths, including deaths in which—

"(A) there is a record of a prior report of child abuse or neglect or there is reason to suspect that the child death was caused by, or related to, child abuse or neglect; or

"(B) the child who died was a ward of the State or was otherwise known to the State or local child welfare service agency.

"(2) A citizen review panel established in accordance with section 106(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(c)) or a foster care review board may be a State, regional, or local child death review team for purposes of satisfying the requirements of paragraph (1).".

(b) FEDERAL CHILD DEATH REVIEW TEAM.—Section 471 of the Social Security Act (42 U.S.C. 671), as amended by subsection (a), is amended by adding at the end the following:

"(d)(1) The Secretary shall establish a Federal child death review team that shall consist of at least the following:

"(A) Representatives of the following Federal agencies who have expertise in the prevention or treatment of child abuse and neglect:

"(i) Department of Health and Human Services.

"(ii) Department of Justice.

"(iii) Bureau of Indian Affairs.

"(iv) Department of Defense.

"(v) Bureau of the Census.

"(B) Representatives of national child-serving organizations who have expertise in the prevention or treatment of child abuse and neglect and that, at a minimum, represent the health, child welfare, social services, and law enforcement fields.

"(2) The Federal child death review team established under this subsection shall—

"(A) review reports of child deaths on military installations and other Federal lands, and coordinate with Indian tribal organizations in the review of child deaths on Indian reservations;

"(B) upon request, provide guidance and technical assistance to States and localities seeking to initiate or improve child death review teams and to prevent child fatalities; and

"(C) develop recommendations on related policy and procedural issues for Congress, relevant Federal agencies, and States and localities for the purpose of preventing child fatalities.".

SEC. 104. STATES REQUIRED TO INITIATE OR JOIN PROCEEDINGS TO TERMINATE PARENTAL RIGHTS FOR CERTAIN CHILDREN IN FOSTER CARE.

(a) REQUIREMENT FOR PROCEEDINGS.—Section 475(5) of the Social Security Act (42 U.S.C. 675(5)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following:

"(E) in the case of a child who has been in foster care under the responsibility of the State for 12 of the most recent 18 months, or, if a court of competent jurisdiction has determined an infant to have been abandoned (as defined under State law), or made a determination that the parent has committed murder of another child of such parent, committed voluntary manslaughter of another child of such parent, aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter, or committed a felony assault that results in serious bodily injury to the surviving child or to another child of such parent, the State shall file a petition to terminate the parental rights of the child's parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless—

"(i) at the option of the State, the child is being cared for by a relative;

"(ii) a State agency has documented to a State court a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

"(iii) the State has not provided to the family of the child such services as the State deems necessary for the safe return of the child to the child's home.".

(b) DETERMINATION OF BEGINNING OF FOSTER CARE.—Section 475(5) of the Social Security Act (42 U.S.C. 675(5)), as amended by subsection (a), is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following:

"(F) a child shall be considered to have entered foster care on the earlier of—

"(i) the date of the first judicial hearing on removal of the child from the home; or

"(ii) that date that is 30 days after the date on which the child is removed from the home.".

(c) RULE OF CONSTRUCTION.—Nothing in part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.), as amended by this Act, shall be construed as precluding State courts or State agencies from initiating the termination of parental rights for reasons other than, or for timelines earlier than, those specified in part E of title IV of such Act, when such actions are determined to be in the best interests of the child, including cases where the child has experienced multiple foster care placements of varying durations .

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to children entering foster care under the responsibility of the State after the date of enactment of this Act.

(2) TRANSITION RULE FOR CURRENT AND FORMER FOSTER CARE CHILDREN.—Subject to paragraph (3), the amendments made by subsection (a) shall apply to children in foster care under the responsibility of the State on or before the date of enactment of this Act as though those children first entered foster care on the date of enactment of this Act.

(3) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—The provisions of section 501(b) shall apply to the effective date of the amendments made by this section.

SEC. 105. NOTICE OF REVIEWS AND HEARINGS; OPPORTUNITY TO BE HEARD.

Section 475(5) of the Social Security Act (42 U.S.C. 675(5)), as amended by section 104(b), is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by adding at the end the following:

"(G) the foster parents (if any) of a child and any preadoptive parent, relative providing care for the child, or any other individual who has provided substitute care for the child are provided with notice of, and an opportunity to be heard in, any review or hearing to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, relative providing care for the child, or other individual who has provided substitute care for the child be made a party to such a review or hearing solely on the basis of such notice and opportunity to be heard.".

SEC. 106. USE OF THE FEDERAL PARENT LOCATOR SERVICE FOR CHILD WELFARE SERVICES.

Section 453 of the Social Security Act (42 U.S.C. 653), as amended by section 5534(a) of the Balanced Budget Act of 1997, is amended—

(1) in subsection (a)(2)—

(A) in the matter preceding subparagraph (A), by inserting "or making or enforcing child custody or visitation orders," after "obligations,"; and

(B) in subparagraph (A)—

(i) by striking "or" at the end of clause (ii);

(ii) by striking the comma at the end of clause (iii) and inserting "; or"; and

(iii) by inserting after clause (iii) the following:

"(iv) who has or may have parental rights with respect to a child,"; and

(2) in subsection (c)—

(A) by striking the period at the end of paragraph (3) and inserting "; and"; and

(B) by adding at the end the following:

"(4) a State agency that is administering a program operated under a State plan under subpart 1 of part B, or a State plan approved under subpart 2 of part B or under part E.".

SEC. 107. CRIMINAL RECORDS CHECKS FOR PROSPECTIVE FOSTER AND ADOPTIVE PARENTS AND GROUP CARE STAFF.

(a) REQUIREMENT FOR CRIMINAL RECORDS CHECKS.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 5591(b) of the Balanced Budget Act of 1997, is amended—

(1) by striking "and" at the end of paragraph (18);

(2) by striking the period at the end of paragraph (19) and inserting "; and"; and

(3) by adding at the end the following:

"(20) provides procedures for Federal and State criminal records checks for any prospective foster or adoptive parent and any other adults residing in the household of such parent, and any employee of a residential child-care institution before the foster parent or adoptive parent, or the residential child-care institution may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments are to be made under the State plan under this part, including procedures requiring that in any case in which a record check reveals a criminal conviction of child abuse or neglect, or of spousal abuse, a criminal conviction for crimes against children (including child pornography), or a criminal conviction for a crime involving violence, including rape, sexual or other physical assault, battery, or homicide, approval shall not be granted, and that, with respect to drug-related offenses, if a State finds that a court of competent jurisdiction has determined that such an offense has been committed within the past 5 years, approval shall not be granted.".

(b) CONTINUED APPLICABILITY OF STATE LAWS.—The amendment made by subsection (a) shall not be construed to supersede any provision of State law that establishes, implements, or continues in effect any standard or requirement relating to criminal records checks and other background checks for prospective foster and adoptive parents, and for employees of a residential child-care institution, except to the extent that such standard or requirement prevents the application of the requirements added by such amendment.

SEC. 108. DOCUMENTATION OF EFFORTS FOR ADOPTION OR LOCATION OF A PERMANENT HOME.

Section 475 of the Social Security Act (42 U.S.C. 675) is amended—

(1) in paragraph (1)—

(A) in the last sentence—

(i) by striking "the case plan must also include"; and

(ii) by redesignating such sentence as subparagraph (D) and indenting appropriately; and

(B) by adding at the end, the following:

"(E) In the case of a child with respect to whom the State's plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to

place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems."; and

(2) in paragraph (5)(B), by inserting "(including the requirement specified in paragraph (1)(E))" after "case plan".

TITLE II—INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR CHILDREN

SEC. 201. ADOPTION INCENTIVE PAYMENTS.

(a) IN GENERAL.—Part E of title IV of the Social Security Act (42 U.S.C. 670–679) is amended by inserting after section 473 the following:

"SEC. 473A. ADOPTION INCENTIVE PAYMENTS.

"(a) GRANT AUTHORITY.—Subject to the availability of such amounts as may be provided in advance in appropriations Acts for this purpose, the Secretary may make a grant to each State that is an incentive-eligible State for a fiscal year in an amount equal to the adoption incentive payment payable to the State for the fiscal year under this section, which shall be payable in the immediately succeeding fiscal year.

"(b) INCENTIVE-ELIGIBLE STATE.—A State is an incentive-eligible State for a fiscal year if—

"(1) the State has a plan approved under this part for the fiscal year;

"(2) the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year;

"(3) the State is in compliance with subsection (c) for the fiscal year;

"(4) the State provides health insurance coverage to any child with special needs for whom there is in effect an adoption assistance agreement between a State and an adoptive parent or parents; and

"(5) the fiscal year is any of fiscal years 1998 through 2002.

"(c) DATA REQUIREMENTS.—

"(1) IN GENERAL.—A State is in compliance with this subsection for a fiscal year if the State has provided to the Secretary the data described in paragraph (2) for fiscal year 1997 (or, if later, the fiscal year that precedes the 1st fiscal year for which the State seeks a grant under this section) and for each succeeding fiscal year.

"(2) DETERMINATION OF NUMBERS OF ADOPTIONS.—

"(A) DETERMINATIONS BASED ON AFCARS DATA.—Except as provided in subparagraph (B), the Secretary shall determine the numbers of foster child adoptions and of special needs adoptions in a State during each of fiscal years 1997 through 2002, for purposes of this section, on the basis of data meeting the requirements of the system established pursuant to section 479, as reported by the State in May of the fiscal year and in November of the succeeding fiscal year, and approved by the Secretary by April 1 of the succeeding fiscal year.

"(B) ALTERNATIVE DATA SOURCES PERMITTED FOR FISCAL YEAR 1997.—For purposes of the determination described in subparagraph (A) for fiscal year 1997, the Secretary may use data from a source or sources other than that specified in subparagraph (A) that the Secretary finds to be of equivalent completeness and reliability, as reported by a State by November 30, 1997, and approved by the Secretary by March 1, 1998.

"(3) NO WAIVER OF AFCARS REQUIREMENTS.—This section shall not be construed to alter or affect any requirement of section 479 or any regulation prescribed under such section with respect to reporting of data by States, or to waive any penalty for failure to comply with the requirements.

"(d) ADOPTION INCENTIVE PAYMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the adoption incentive payment payable to a State for a fiscal year under this section shall be equal to the sum of—

"(A) $3,000, multiplied by amount (if any) by which the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year; and

"(B) $3,000, multiplied by the amount (if any) by which the number of special needs adoptions in the State during the fiscal year exceeds the base number of special needs adoptions for the State for the fiscal year.

"(2) PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS AVAILABLE.—For any fiscal year, if the total amount of adoption incentive payments otherwise payable under this section for a fiscal year exceeds the amount appropriated for that fiscal year, the amount of the adoption incentive payment payable to each State under this section for the fiscal year shall be—

"(A) the amount of the adoption incentive payment that would otherwise be payable to the State under this section for the fiscal year; multiplied by

"(B) the percentage represented by the amount appropriated for that year, divided by the total amount of adoption incentive payments otherwise payable under this section for the fiscal year.

"(e) 2-YEAR AVAILABILITY OF INCENTIVE PAYMENTS.—Payments to a State under this section in a fiscal year shall remain available for use by the State through the end of the succeeding fiscal year.

"(f) LIMITATIONS ON USE OF INCENTIVE PAYMENTS.—A State shall not expend an amount paid to the State under this section except to provide to children or families any service (including post-adoption services) that may be provided under part B or E. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under section 474.

"(g) DEFINITIONS.—As used in this section:

"(1) FOSTER CHILD ADOPTION.—The term 'foster child adoption' means the final adoption of a child who, at the time of adoptive placement, was in foster care under the supervision of the State.

"(2) SPECIAL NEEDS ADOPTION.—The term 'special needs adoption' means the final adoption of a child for whom an adoption assistance agreement is in effect under section 473.

"(3) BASE NUMBER OF FOSTER CHILD ADOPTIONS.—The term 'base number of foster child adoptions for a State' means, with respect to a fiscal year, the average number of foster child adoptions in the State for the 3 most recent fiscal years.

"(4) BASE NUMBER OF SPECIAL NEEDS ADOPTIONS.—The term 'base number of special needs adoptions for a State' means, with respect to a fiscal year, the average number of special needs adoptions in the State for the 3 most recent fiscal years.

"(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For grants under this section, there is authorized to be appropriated to the Secretary $15,000,000 for each of fiscal years 1999 through 2003.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) are authorized to remain available until expended, but not after fiscal year 2003.

"(i) TECHNICAL ASSISTANCE.—The Secretary shall provide, directly, or by grant, contract, or interagency agreement, technical assistance upon request to assist States and local communities to reach their targets for increased numbers of adoptions.".

(b) DISCRETIONARY CAP ADJUSTMENT FOR ADOPTION INCENTIVE PAYMENTS.—

(1) SECTION 251 AMENDMENT.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)), as amended by section 10203(a)(4) of the Balanced Budget Act of 1997, is amended by adding at the end the following new subparagraph:

"(G) ADOPTION INCENTIVE PAYMENTS.—Whenever a bill or joint resolution making appropriations for fiscal year 1999, 2000, 2001, 2002, or 2003 is enacted that specifies an amount for adoption incentive payments for the Department of Health and Human Services—

"(i) the adjustments for new budget authority shall be the amounts of new budget authority provided in that measure for adoption incentive payments, but not to exceed $15,000,000; and

"(ii) the adjustment for outlays shall be the additional outlays flowing from such amount.".

(2) SECTION 314 AMENDMENT.—Section 314(b) of the Congressional Budget Act of 1974, as amended by section 10114(a) of the Balanced Budget Act of 1997, is amended—

(A) by striking "or" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; or"; and

(C) by adding at the end the following:

"(6) in the case of an amount for adoption incentive payments (as defined in section 251(b)(2)(G) of the Balanced Budget and Emergency Deficit Control Act of 1985) for fiscal year 1999, 2000, 2001, 2002, or 2003 for the Department of Health and Human Services, an amount not to exceed $15,000,000.".

SEC. 202. ADOPTIONS ACROSS STATE AND COUNTY JURISDICTIONS.

(a) ELIMINATION OF GEOGRAPHIC BARRIERS TO INTERSTATE ADOPTION.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 107, is amended—

(1) by striking "and" at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting "; and"; and

(3) by adding at the end the following:

"(21) provides that neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption may—

"(A) deny to any person the opportunity to become an adoptive parent on the basis of the geographic residence of the person or of the child involved; or

"(B) delay or deny the placement of a child for adoption on the basis of the geographic residence of an adoptive parent or of the child involved.".

(b) STUDY OF INTERJURISDICTIONAL ADOPTION ISSUES.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall appoint an advisory panel that shall—

(A) study and consider how to improve procedures and policies to facilitate the timely and permanent adoptions of children across State and county jurisdictions;

(B) examine, at a minimum, interjurisdictional adoption issues—

(i) concerning the recruitment of prospective adoptive families from other States and counties;

(ii) concerning the procedures to grant reciprocity to prospective adoptive family home studies from other States and counties;

(iii) arising from a review of the comity and full faith and credit provided to adoption decrees and termination of parental rights orders from other States; and

(iv) concerning the procedures related to the administration and implementation of the Interstate Compact on the Placement of Children; and

(C) not later than 12 months after the final appointment to the advisory panel, submit to the Secretary the report described in paragraph (3).

(2) COMPOSITION OF ADVISORY PANEL.—In establishing the advisory panel required under paragraph (1), the Secretary shall appoint members from the general public who are individuals knowledgeable on adoption and foster care issues, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who, at a minimum, include the following:

(A) Adoptive and foster parents.

(B) Public and private child welfare agencies that place children in and out of home care.

(C) Family court judges.

(D) Adoption attorneys.

(E) An Administrator of the Interstate Compact on the Placement of Children and an Administrator of the Interstate Compact on Adoption and Medical Assistance.

(F) A representative cross-section of individuals from other organizations and individuals with expertise or advocacy experience in adoption and foster care issues.

(3) CONTENTS OF REPORT.—The report required under paragraph (1)(C) shall include the results of the study conducted under subparagraphs (A) and (B) of paragraph (1) and recommendations on how to improve procedures to facilitate the interjurisdictional adoption of children, including interstate and intercounty adoptions, so that children will be assured timely and permanent placements.

(4) CONGRESS.—The Secretary shall submit a copy of the report required under paragraph (1)(C) to the appropriate committees of Congress, and, if relevant, make recommendations for proposed legislation.

SEC. 203. STATE PERFORMANCE IN PROTECTING CHILDREN.

(a) ANNUAL REPORT.—

(1) IN GENERAL.—Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by adding at the end the following:

"SEC. 479A. ANNUAL REPORT.

"(a) IN GENERAL.—The Secretary shall issue an annual report containing ratings of the performance of each State in protecting children who are placed in foster care, for adoption, or with a relative or guardian. The report shall include ratings on outcome measures for categories related to safety and permanence for children.

"(b) OUTCOME MEASURES.—

"(1) IN GENERAL.—The Secretary, in consultation with the American Public Welfare Association, the National Governors' Association, the National Conference of State Legislatures, and child welfare advocates, shall develop a set of outcome measures to be used in preparing the report.

"(2) CATEGORIES.—In developing the outcome measures, the Secretary shall develop measures that can track performance over time for the following categories:

"(A) The number of children placed annually for adoption, the number of placements of children with special needs, and the number of children placed permanently in a foster family home, with a relative, or with a guardian who is not a relative.

"(B) The number of children, including those with parental rights terminated, that annually leave foster care at the age of majority without having been adopted or placed with a guardian.

"(C) The median and mean length of stay of children in foster care, for children with parental rights terminated, and children for whom parental rights are retained by the biological or adoptive parent.

"(D) The median and mean length of time between a child having a plan of adoption and termination of parental rights, between the availability of a child for adoption and the placement of the child in an adoptive family, and between the placement of the child in such a family and the finalization of the adoption.

"(E) The number of deaths of children in foster care and other out-of-home care, including kinship care, resulting from substantiated child abuse and neglect.

"(F) The specific steps taken by the State to facilitate permanence for children.

"(3) MEASURES.—In developing the outcome measures, the Secretary shall use data from the Adoption and Foster Care Analysis and Reporting System established under section 479 to the maximum extent possible.

"(c) RATING SYSTEM.—The Secretary shall develop a system (including using State census data and poverty rates) to rate the performance of each State based on the outcome measures.

"(d) PREPARATION AND ISSUANCE.—On May 1, 1999, and annually thereafter, the Secretary shall prepare, submit to Congress, and issue to the States the report described in subsection (a). Each report shall rate the performance of a State on each outcome measure developed under subsection (b), include an explanation of the rating system developed under subsection (c), and the way in which scores are determined under the rating system, analyze high and low performances for the State, and make recommendations to the State for improvement.".

(2) CONFORMING AMENDMENTS.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 202(a), is amended—

(A) in paragraph (20), by striking "and" at the end;

(B) in paragraph (21), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(22) provides that the State shall annually provide to the Secretary the information required under section 479A.".

(b) DEVELOPMENT OF PERFORMANCE-BASED INCENTIVE SYSTEM.—The Secretary of Health and Human Services, in consultation with State and local public officials responsible for administering child welfare programs and child welfare advocates, shall develop and recommend to Congress an incentive system to provide payments under parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq., 670 et seq.) to any State based on such State's performance under such a system. Such system shall, to the extent the Secretary determines feasible and appropriate, be based on the annual report required under section 479A of the Social Security Act (as added by subsection (a) of this Act) or on any proposed modifications of such annual report. Not later than 6 months after the date of enactment of this Act, the Secretary shall report on the new system to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—ADDITIONAL IMPROVEMENTS AND REFORMS

SEC. 301. EXPANSION OF CHILD WELFARE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Section 1130(a) of the Social Security Act (42 U.S.C. 1320a-9) is amended to read as follows:

"(a) AUTHORITY TO APPROVE DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary may authorize States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV. Such projects shall be designed to achieve 1 or more of the following goals:

"(A) Reducing a backlog of children in long-term foster care or awaiting adoption placement.

"(B) Ensuring, not later than 1 year after a child enters foster care, an adoptive placement for the child.

"(C) Identifying and addressing barriers that result in delays to adoptive placements for children in foster care.

"(D) Identifying and addressing parental substance abuse problems that endanger children and result in the placement of children in foster care, including through the placement of children with their parents in residential treatment facilities (including residential treatment facilities for postpartum depression) that are specifically designed to serve parents and children together in order to promote family reunification and that can ensure the health and safety of the children in such placements.

"(E) Overcoming barriers to the adoption of children with special needs resulting from a lack of health insurance coverage for such children.

"(F) Any other goal that the Secretary has approved for a demonstration project under this section as of the date of enactment of the Promotion of Adoption, Safety, and Support for Abused and Neglected Children (PASS) Act, or, after such date, specifies by regulation.

"(2) REQUIREMENT.—In considering an application to conduct a demonstration project under this section that has been submitted by a State in which there has been a court order determining that the State's child welfare program has failed to comply with the provisions of part B or E of title IV or of the Constitution, the Secretary shall take into consideration the effect of approving the proposed project on the terms and conditions of any court order related to such failure to comply that is in effect in the State.".

(b) RULE OF CONSTRUCTION.—Nothing in the amendments made by subsection (a) shall be construed as affecting the terms and conditions of any demonstration projects under section 1130 of the Social Security Act (42 U.S.C. 1320a-9) that have been approved by the Secretary as of the date of enactment of this Act.

SEC. 302. PERMANENCY PLANNING HEARINGS.

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C)) is amended—

(1) by striking "dispositional" and inserting "permanency planning";

(2) by striking "eighteen" and inserting "12";

(3) by striking "original placement" and inserting "date the child is considered to have entered foster care (as determined under subparagraph (F))"; and

(4) by striking "future status of" and all that follows through "long term basis)" and inserting "permanency plan for the child

that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship or custody, or (in cases where the State agency has documented to the State court a compelling reason for determining that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a qualified relative, or with a legal guardian) placed in another planned permanent living arrangement".

SEC. 303. KINSHIP CARE.

(a) REPORT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall—

(A) not later than March 1, 1998, convene the advisory panel provided for in subsection (b)(1) and prepare and submit to the advisory panel an initial report on the extent to which children in foster care are placed in the care of a relative (in this section referred to as "kinship care"); and

(B) not later than November 1, 1998, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a final report on the matter described in subparagraph (A), which shall—

(i) be based on the comments submitted by the advisory panel pursuant to subsection (b)(2) and other information and considerations; and

(ii) include the policy recommendations of the Secretary with respect to the matter.

(2) REQUIRED CONTENTS.—Each report required by paragraph (1) shall—

(A) include, to the extent available for each State, information on—

(i) the policy of the State regarding kinship care;

(ii) the characteristics of the kinship care providers (including age, income, ethnicity, and race, and the relationship of the kinship care providers to the children);

(iii) the characteristics of the household of such providers (such as number of other persons in the household and family composition);

(iv) how much access to the child is afforded to the parent from whom the child has been removed;

(v) the cost of, and source of funds for, kinship care (including any subsidies such as medicaid and cash assistance);

(vi) the permanency plan for the child and the actions being taken by the State to achieve the plan;

(vii) the services being provided to the parent from whom the child has been removed; and

(viii) the services being provided to the kinship care provider; and

(B) specifically note the circumstances or conditions under which children enter kinship care.

(b) ADVISORY PANEL.—

(1) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate, shall convene an advisory panel which shall include parents, foster parents, relative caregivers, former foster children, State and local public officials responsible for administering child welfare programs, private persons involved in the delivery of child welfare services, representatives of tribal governments and tribal courts, judges, and academic experts.

(2) DUTIES.—The advisory panel convened pursuant to paragraph (1) shall review the report prepared pursuant to subsection (a), and, not later than July 1, 1998, submit to the Secretary comments on the report.

SEC. 304. CLARIFICATION OF ELIGIBLE POPULATION FOR INDEPENDENT LIVING SERVICES.

Section 477(a)(2)(A) of the Social Security Act (42 U.S.C. 677(a)(2)(A)) is amended by inserting "(including children with respect to whom such payments are no longer being made because the child has accumulated assets, not to exceed $5,000, which are otherwise regarded as resources for purposes of determining eligibility for benefits under this part)" before the comma.

SEC. 305. REAUTHORIZATION AND EXPANSION OF FAMILY PRESERVATION AND SUPPORT SERVICES.

(a) REAUTHORIZATION OF FAMILY PRESERVATION AND SUPPORT SERVICES.—

(1) IN GENERAL.—Section 430(b) of the Social Security Act (42 U.S.C. 629(b)) is amended—

(A) in paragraph (4), by striking "or" at the end;

(B) in paragraph (5), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(6) for fiscal year 1999, $275,000,000;

"(7) for fiscal year 2000, $295,000,000; and

"(8) for fiscal year 2001, $305,000,000.".

(2) CONTINUATION OF RESERVATION OF CERTAIN AMOUNTS.—Paragraphs (1) and (2) of section 430(d) of the Social Security Act (42 U.S.C. 630(d)) are each amended by striking "and 1998" and inserting "1998, 1999, 2000, and 2001".

(3) CONFORMING AMENDMENTS.—Section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note) is amended—

(A) in subsection (c), by striking "1998" each place it appears and inserting "2001"; and

(B) in subsection (d)(2), by striking "and 1998" and inserting "1998, 1999, 2000, and 2001".

(b) EXPANSION FOR TIME-LIMITED FAMILY REUNIFICATION SERVICES AND ADOPTION PROMOTION AND SUPPORT SERVICES.—

(1) ADDITIONS TO STATE PLAN; MINIMUM SPENDING REQUIREMENTS.—Section 432 of the Social Security Act (42 U.S.C. 629b) is amended—

(A) in subsection (a)—

(i) in paragraph (4), by striking "and community-based family support services" and inserting ", community-based family support services, time-limited family reunification services, and adoption promotion and support services,"; and

(ii) in paragraph (5)(A), by striking "and community-based family support services" and inserting ", community-based family support services, time-limited family reunification services, and adoption promotion and support services"; and

(B) in subsection (b)(1), by striking "and family support" and inserting ", family support, family reunification, and adoption promotion and support".

(2) DEFINITIONS OF TIME-LIMITED FAMILY REUNIFICATION SERVICES AND ADOPTION PROMOTION AND SUPPORT SERVICES.—Section 431(a) of the Social Security Act (42 U.S.C. 629a(a)) is amended by adding at the end the following:

"(7) TIME-LIMITED FAMILY REUNIFICATION SERVICES.—

"(A) IN GENERAL.—The term 'time-limited family reunification services' means the services and activities described in subparagraph (B) that are provided to a child that is removed from the child's home and placed in a foster family home or a child care institution and to the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion, but only during the 1-year period that begins on the date that the child is removed from the child's home.

"(B) SERVICES AND ACTIVITIES DESCRIBED.—The services and activities described in this subparagraph are the following:

"(i) Individual, group, and family counseling.

"(ii) Inpatient, residential, or outpatient substance abuse treatment services.

"(iii) Mental health services.

"(iv) Assistance to address domestic violence.

"(v) Services designed to provide temporary child care and therapeutic services for families, including crisis nurseries.

"(vi) Transportation to or from any of the services and activities described in this subparagraph.

"(8) ADOPTION PROMOTION AND SUPPORT SERVICES.—The term 'adoption promotion and support services' means services and activities designed to encourage more adoptions out of the foster care system, when adoptions promote the best interests of children, and shall include the following:

"(A) Models to encourage adoptions of special needs children, including through the provision of medical assistance.

"(B) The development of best practice guidelines for expediting termination of parental rights.

"(C) Models to encourage the use of concurrent planning.

"(D) The development of specialized units and expertise in moving children toward adoption as a part of a permanency plan.

"(E) The development of risk assessment tools to facilitate early identification of the children who will be at risk of harm if returned home.

"(F) Models to encourage the fast tracking of children who have not attained 1 year of age into adoptive and preadoptive placements.

"(G) Development of programs that place children in preadoptive families without waiting for termination of parental rights.

"(H) Development of programs to recruit adoptive parents.

"(I) Such other services or activities that are designed to promote and support adoption as the Secretary may approve.".

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) PURPOSES.—Section 430(a) of the Social Security Act (42 U.S.C. 629(a)) is amended by striking "and community-based family support services" and inserting ", community-based family support services, time-limited family reunification services, and adoption promotion and support services".

(B) EVALUATIONS.—Subparagraphs (B) and (C) of section 435(a)(2) of the Social Security Act (42 U.S.C. 629d(a)(2)) are each amended by striking "and family support" each place it appears and inserting ", family support, family reunification, and adoption promotion and support".

(C) PROGRAM TITLE.—The heading of subpart 2 of part B of title IV of the Social Security Act (42 U.S.C. 629 et seq.) is amended to read as follows:

"Subpart 2—Promoting Adoptive, Safe, and Stable Families".

(c) EMPHASIZING THE SAFETY OF THE CHILD.—

(1) REQUIRING ASSURANCES THAT THE SAFETY OF CHILDREN SHALL BE OF PARAMOUNT CONCERN.—Section 432 of the Social Security Act (42 U.S.C. 629b) is amended—

(A) in paragraph (7)(B), by striking "and" at the end;

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7), the following:

"(8) contains assurances that in administering and conducting service programs under the plan, the safety of the children to be served shall be of paramount concern; and".

(2) DEFINITIONS OF FAMILY PRESERVATION AND FAMILY SUPPORT SERVICES.—Section 431(a) of the Social Security Act (42 U.S.C. 629a(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting "safe and" before "appropriate" each place it appears; and

(ii) in subparagraph (B), by inserting "safely" after "remain"; and

(B) in paragraph (2)—

(i) by inserting "safety and" before "well-being"; and

(ii) by striking "stable" and inserting "safe, stable,".

(d) CLARIFICATION OF MAINTENANCE OF EFFORT REQUIREMENT.—

(1) DEFINITION OF NON-FEDERAL FUNDS.—Section 431(a) of the Social Security Act (42 U.S.C. 629a(a)), as amended by subsection (b)(2), is amended by adding at the end the following:

"(9) NON-FEDERAL FUNDS.—The term 'non-Federal funds' means State funds, or at the option of a State, State and local funds.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect as if included in the enactment of section 13711 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–33; 107 Stat. 649).

SEC. 306. HEALTH INSURANCE COVERAGE FOR CHILDREN WITH SPECIAL NEEDS.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 203(a)(2), is amended—

(1) in paragraph (21), by striking "and" at the end;

(2) in paragraph (22), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(23) provides for health insurance coverage for any child who has been determined to be a child with special needs, for whom there is in effect an adoption assistance agreement (other than an agreement under this part) between the State and an adoptive parent or parents, and who the State has determined cannot be placed with an adoptive parent or parents without medical assistance because such child has special needs for medical, mental health, or rehabilitative care, and that with respect to the provision of such health insurance coverage—

"(A) such coverage may be provided through 1 or more State medical assistance programs;

"(B) the State, in providing such coverage, shall ensure that the medical benefits, including mental health benefits, provided are of the same type and kind as those that would be provided for children by the State under title XIX;

"(C) in the event that the State provides such coverage through a State medical assistance program other than the program under title XIX, and the State exceeds its funding for services under such other program, any such child shall be deemed to be receiving aid or assistance under the State plan under this part for purposes of section 1902(a)(10)(A)(i)(I); and

"(D) in determining cost-sharing requirements, the State shall take into consideration the circumstances of the adopting parent or parents and the needs of the child being adopted.".

SEC. 307. CONTINUATION OF ELIGIBILITY FOR ADOPTION ASSISTANCE PAYMENTS ON BEHALF OF CHILDREN WITH SPECIAL NEEDS WHOSE INITIAL ADOPTION HAS BEEN DISRUPTED.

(a) CONTINUATION OF ELIGIBILITY.—Section 473(a)(2) of the Social Security Act (42 U.S.C. 673(a)(2)) is amended by adding at the end the following: "Any child who has been determined to meet the requirements of subparagraph (C), and who has previously been determined eligible for adoption assistance payments under paragraph (1)(B)(ii), who has again become available for adoption because a court has set aside the child's previous adoption or the child's adoptive parents have died, and who fails to meet the requirements of subparagraphs (A) and (B) but would meet such requirements if the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments and the previous adoption were treated as having never occurred, shall be treated as meeting the requirements of this paragraph for purposes of paragraph (1)(B)(ii).".

(b) APPLICABILITY.—The amendment made by subsection (a) shall only apply to children who become available for adoption because a court has set aside the child's previous adoption, or the child's adoptive parents have died, and whose subsequent adoption occurs on or after October 1, 1997.

SEC. 308. STATE STANDARDS TO ENSURE QUALITY SERVICES FOR CHILDREN IN FOSTER CARE.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 306, is amended—

(1) in paragraph (22), by striking "and" at the end;

(2) in paragraph (23), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(24) provides that, not later than January 1, 1999, the State shall develop and implement standards to ensure that children in foster care placements in public or private agencies are provided quality services that protect the safety and health of the children.".

TITLE IV—MISCELLANEOUS

SEC. 401. PRESERVATION OF REASONABLE PARENTING.

Nothing in this Act is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting.

SEC. 402. REPORTING REQUIREMENTS.

Any information required to be reported under this Act shall be supplied to the Secretary of Health and Human Services through data meeting the requirements of the Adoption and Foster Care Analysis and Reporting System established pursuant to section 479 of the Social Security Act (42 U.S.C. 679), to the extent such data is available under that system. The Secretary shall make such modifications to regulations issued under section 479 of such Act with respect to the Adoption and Foster Care Analysis and Reporting System as may be necessary to allow States to obtain data that meets the requirements of such system in order to satisfy the reporting requirements of this Act.

SEC. 403. SENSE OF CONGRESS REGARDING STANDBY GUARDIANSHIP.

It is the sense of Congress that the States should have in effect laws and procedures that permit any parent who is chronically ill or near death, without surrendering parental rights, to designate a standby guardian for the parent's minor children, whose authority would take effect upon—

(1) the death of the parent;

(2) the mental incapacity of the parent; or

(3) the physical debilitation and consent of the parent.

PRIVATE RELIEF ACT

HATCH AMENDMENT NO. 1615

Mr. CRAIG (for Mr. HATCH) proposed an amendment to the bill (S. 1304) for the relief of Belinda McGregor; as follows:

SECTION 1. At page 1, line 7, delete "lawfully admitted to the United States for permanent residence" and insert in lieu thereof the following: "selected for a diversity immigrant visa for FY 1998".

SECTION 2. At page 2, lines 4 and 5, change (a) to (c).

THE GROUP HOSPITALIZATION AND MEDICAL SERVICES FEDERAL CHARTER REPEAL ACT

THOMPSON AMENDMENT NO. 1616

Mr. CRAIG (for Mr. THOMPSON) proposed an amendment to the bill to repeal the Federal charter of Group Hospitalization and Medical Services, Inc., and for other purposes; as follows:

On page 8, line 15, strike "(2)".

THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT AMENDMENTS ACT OF 1997

BENNETT AMENDMENT NO. 1617

Mr. CRAIG (for Mr. BENNETT) proposed an amendment to the bill (S. 1258) to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien who is not lawfully present in the United States from receiving assistance under that Act; as follows:

On page 2, line 3, strike "(a)".

On page 3, line 4, strike ", under this Act,".

On page 3, beginning on line 5, strike "on the basis of race, color, or national origin".

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HAGEL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Saturday, November 7, 1997, at 1:30 p.m. in open session, to receive testimony on the nomination of William J. Lynn III, to be Under Secretary of Defense (Comptroller).

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

ADDITIONAL STATEMENTS

NEW LEGAL AND ACCOUNTING DIMENSIONS OF THE YEAR 2000 COMPUTER PROBLEM

• Mr. MOYNIHAN. Mr. President, on Thursday, in the Wall Street Journal, two articles appeared highlighting additional facets of the year 2000 [Y2K] problem. While the computer and business industries have been the primary focus of news articles in the past, these reports focused on the legal and accounting fields. And today, in an editorial in the New York Post, the editors warn that "attorneys hope to make a killing off the so called Year 2000 problem."

In the Journal article entitled "Threat of Computer Glitch in 2000 Has Lawyers Seeing Dollar Signs," the authors report that "corporate lawyers are urging clients to review their information systems and write warranties into their contracts." The possibility of future litigation has caused New York law firms, such as Skadden, Arps, Slate, Meagher & Flom, to establish special groups of attorneys to ensure that all contracts contain Y2K warranties.

The other article, "CPA Group to Issue Guidelines on Costs of Year 2000 Bug," reports that the American Institute of Certified Public Accountants will advise "auditors on how to push corporations to disclose and account" for Y2K costs. Further, many companies have yet to begin the process of changing their systems to alleviate the problem, and are unaware of the enormous costs that lie ahead. This could well lead to misstatement of profits or loses of 10 percent or more. Lastly, in their no-holds-barred manner, the Post editors write: "this [problem] could make the litigation over breast implants and asbestos look like chump-change wrangling." My dutiful peer, Senator BENNETT of Utah, has been looking into these matters, as Chair of the Banking Subcommittee on Financial Services and Technology. And for that we are most grateful. Yet his voice, like that of Congressman STEPHEN HORN, is being lost among the din over many less pressing issues.

Mr President, we are beginning to see the ripple-like effects of this most serious issue. The overall costs have been estimated as high as a half a trillion dollars, and that widespread failure to comply could lead to a global recession, in the opinion of New York Federal Reserve Bank President William J. McDonough.

Above all, from our standpoint, we have an obligation to get our own house in order. The lagging response of the U.S. Government to this problem, a relative benchmark, as the United States is ahead of most countries, is without excuse. With just under 800 days left, we cannot have half of our agencies still assessing how many mission critical systems will be affected. This is but the first phase of three—renovation and testing/implementation are the other two. We need an outside body to ensure this problem is fixed. My bill, S. 22, will do just that.

I ask that the articles from the Wall Street Journal and the editorial from the New York Post be printed in the RECORD.

The articles follow:

[From the New York Post, Nov. 8, 1997]

THE MILLENNIUM BUG—AND THE LAWYERS

Plaintiff's lawyers plan to celebrate the millennium in a big, and profitable, way—with the mother of all class-action suits. And experts say this could make the litigation over breast implants and asbestos look like chump-change wrangling.

The attorneys hope to make a killing off the so-called Year 2000 Problem: Many computer systems, especially older mainframes, recognize only the last two digits of a year, so when the century ends and the calendar flips over to double zeros, the computers will crash or, even worse, produce crazy outputs.

This is a serious—and hugely expensive—worldwide problem, affecting almost every industry and governmental operation, from payrolls to nuclear-missile safeguards. Computer consultants estimate the worldwide cost of fixing the "millennium bug" at as much as $600 billion.

The reality of a Year 2000 crisis has been creeping up gradually on most firms in recent years. But now that it's been widely recognized, the race is on for a solution: Massive computer failure isn't in anyone's interests.

Inevitably, of course, some firms will fall behind the pack.

Just as inevitably, the trial lawyers are licking their chops.

While computer consultants hunt through billions of lines of code looking for YR2000 liabilities, a conference of lawyers in San Francisco this week devoted itself to scoping out possible litigation targets, the Wall Street Journal reports.

We're not surprised to find the tort bar gearing up. What's even more disturbing is that the government is sitting on its hands. Some federal agencies don't even know the extent of their YR2000 problem.

Congress issued a report card in September rating various agencies' efforts to avoid millennial meltdown. Three failed, including two Cabinet departments: Education and Transportation.

And that's not the bad news.

The Pentagon got a "C" and the Energy Department and Nuclear Regulatory Commission got "Ds." It's hard to say what would happen if defense and nuclear-monitoring computers went berserk at the turn of the century—but it wouldn't be anything pretty.

Even in New York, the systems that control everything from traffic lights to arrest-monitoring are poised to break down or malfunction unless they are fixed soon.

Government officials at all levels admit that it's unlikely all the kinks will be ironed out in time.

But the trial lawyers aren't getting excited: Taxpayers have no class-action standing.

[From the Wall Street Journal, Nov. 6, 1997]

THREAT OF COMPUTER GLITCH IN 2000 HAS LAWYERS SEEING DOLLAR SIGNS

(By Christopher Simon)

The glitch that threatens to shut down computers in the year 2000 and cause chaos in the business world has plenty of people worried. But not lawyers. They see the millennium bug as a business opportunity.

As protection against any 2000 problems, corporate lawyers are urging clients to review their information systems and write warranties into their contracts with software vendors. Plaintiffs' lawyers are exploring potential litigation targets.

There are even conferences on the subject. One starting today in San Francisco will feature sessions on the potential liability of the computer industry, consultants, financial institutions, insurance companies and even landlords, as well as the defenses that might be offered. Some lawyers predict year 2000 litigation will dwarf the environmental and asbestos class actions of earlier decades.

The problem, as everyone knows by now, is that computer codes programmed to read dates only as two digits will be unable to read the year 2000. Unless datesensitive software and hardware are fixed soon, experts say, computers controlling everything from credit-card billing records to inventories will be confused and shut down.

To fix the problem, Gartner Group, an information technology consulting concern in Stamford, Conn., estimates that $300 billion to $600 billion will be spent world-wide reworking more than 250 billion lines of computer code.

"Whenever there's this kind of money involved, people always start looking for people to shift the liability to," says Stuart D. Levi, of Skadden, Arps, Slate, Meagher & Flom in New York. In the spring, the firm established its own Y2K Group (for year 2000) to help clients by writing warranties into their contracts with software vendors and giving them other advice.

The New York law firm Milberg, Weiss, Bershad, Hynes & Lerach, known for bringing shareholder class actions, has set up an in-house committee of computer experts and lawyers to explore various legal actions if a crisis does occur. Possible targets of litigation, says partner Melvyn Weiss, are corporate directors and officers. Mr. Weiss says management may be responsible for failing to disclose the costs of fixing the problem to shareholders. "Stockholders could be blindsided," he says.

Just last month, in fact, the Securities and Exchange Commission told companies and mutual funds they must keep investors informed about the costs of adapting computer systems to handle the change to the year 2000.

Some people dismiss the idea of massive litigation as wishful thinking by lawyers. "The lawyers who are gleefully rubbing their hands hoping to make millions in litigation are wrong," says Harris N. Miller, president of the Information Technology Association of America in Alexandria, Va. Computer companies and their customers both "have a very strong incentive to solve [the problem] and will do so."

But attorneys say raising the legal issues of a potential crash is part of the solution. Marta A. Manildi of Miller, Canfield, Paddock and Stone in Detroit says her firm has sent letters to hundreds of clients warning them about potential problems with their software, part of a campaign coordinated by the firm's Team 2000. She says advanced planning may allow clients to secure favorable tax treatment for any expenditures they incur in fixing the problem.

And at least one suit seeking damages for an alleged inability of a computer to recognize dates after the year 2000 has already been filed. Produce Palace International Inc., which operates a grocery store in Warren, Mich., claims in a suit filed in state court in Macomb County, Mich., that cash registers it purchased in 1995 aren't capable of reading credit cards with expiration dates after the year 1999. The suit names TEC America Inc. of Atlanta and All American Cash Register Inc. of Inkster, Mich., as defendants.

Mark Yarsike, who owns Produce Palace, says he was dismayed to discover a problem with the high-tech cash registers, which cost $150,000 and are capable of tracking inventory, among other things. The entire network crashes, he says, whenever a customer tries to use a credit card with an expiration date later than 1999. Mr. Yarsike is seeking $10,000 in damages.

TEC denies that its system is flawed and has filed a cross-complaint against All American Cash Register, which installed the machines, claiming that any problems were caused during installation and maintenance. A lawyer for All American Cash Register declined to comment.

Ms. Manaldi, the attorney for TEC, notes that the lawsuit has received a lot of media attention for being possibly the first to make a year 2000 claim and calls the allegations about a millennium bug a stunt to generate publicity. Produce Palace's attorney, Brian P. Parker of Bingham Farms, Mich., defends the action. "I just wrote the complaint based on what [my client] was telling me," he says. "A lot of lawyers are salivating over this. I'm not into that."

[From the Wall Street Journal, Nov. 6, 1997]

CPA GROUP TO ISSUE GUIDELINES ON COSTS OF YEAR 2000 BUG

(By Elizabeth MacDonald)

The American Institute of Certified Public Accountants will issue guidelines today advising auditors on how to push corporations to disclose and account for year-2000 costs.

Computer experts say the year-2000 software bug, by causing systemwide failures when the clock strikes midnight on New Year's Eve in 1999, could cost billions of dollars to fix. At that time, many computers will read "00" as 1900 instead of 2000 and subsequently process data incorrectly or shut down altogether.

The problem is many companies have yet to address the issue, and the accounting industry is getting anxious. The new "tool kit" by the accounting industry's largest trade group summarizes all of the year-2000 accounting, disclosure and auditing standards now in place and describes companies' and auditors' responsibilities in reporting the associated costs.

The guidelines state that auditors must get "reasonable assurance" from corporate-audit clients that their financial statements "are free of material misstatements" involving likely year-2000 problems and how much it will cost to fix them. "Material misstatements," such as inflated inventories, could prompt companies to overstate or understate profits.

Under the guidelines, however, auditors need to get the assurances only for these material misstatements, errors that some accounting experts say could result in losses of about 10% or more of a company's pretax profit. "Auditors could argue that they're not liable for smaller losses resulting from the year-2000 problem because the amounts are not material," says J. Edward Ketz, an associate professor of accounting at Pennsylvania State University's Smeal College of Business. "But if they don't detect a problem that results in losses greater than 10% then they may be held responsible."

Last month, the Securities and Exchange Commission related disclosure guidelines that instruct companies to "consider" disclosing their year-2000 costs to investors in their annual reports or to indicate how the year-2000 problem might hurt future profits. The Financial Accounting Standards Board passed an accounting rule, which took effect last year, that lets companies immediately write off these costs.

But so far only a few corporations, including New England Power Co. and Equitable of Iowa Cos. have quantified their year-2000 costs and disclosed them in their quarterly reports, according to a study by the Analyst's Accounting Observer, a stock analysts' publication in Baltimore.

Auditors are afraid they could be hit with shareholder lawsuits if they don't flag the problem for corporate clients. Such suits could add to the Big Six accounting firms' $30 billion in legal claims stemming from allegedly flawed audits. "That's why the profession is now publicizing what their responsibilities are, which could protect them against investor lawsuits," Prof. Ketz says.

Alan Anderson, chairman of AICPA's year-2000 task force, says, "Clearly, the year-2000 problem is not just an accounting issue but a business issue with global implications." Larry Martin, chairman of Data Dimensions Inc., a Bellevue, Wash., computer-consulting firm, says of the problem, "A third of the companies in this country will either fail or face significant reductions in their business operations."•

TRIBUTE TO DR. JOHN MURPHY

• Mr. McCAIN. Mr. President, I rise today to honor Dr. John E. Murphy of Tucson, AZ for serving as the 1997–98 president of the American Society of Health-System Pharmacists [ASHP]. ASHP is the national professional association which represents pharmacists practicing in various areas of the health care system, including hospitals, health maintenance organizations, long-term care facilities, home health care, and many other vital components of our Nation's health care system.

Dr. John Murphy resides in Tucson where he heads the department of pharmacy practice and science at the University of Arizona College of Pharmacy. He earned his B.S. and Pharm. D degrees at the University of Florida, and later served as a member of the faculty and as director of residencies at Mercer University School of Pharmacy in Georgia. He served as an ASHP board member and chair of its Legal and Public Affairs Council. He also served on many committees of the Arizona Society of Health-System Pharmacists.

John is recognized by his colleagues as a leader in the field of pharmacy education as he prepares today's pharmacy students for delivering effective and efficient health care in our Nation's complex and ever changing system. As President of ASHP, Dr. Murphy will guide the Nation's pharmacists as they develop new and innovative patient care methods.

It is my distinct honor to congratulate and honor John E. Murphy on his well-deserved achievement as the ASHP president. Dr. Murphy has made significant contributions to the University of Arizona, and I am confident that he will prove to be a successful leader for the American Pharmacy.•

1997 WORLD CITIZEN AWARD

• Mrs. MURRAY. Mr. President, I rise join the Washington World Affairs Council in congratulating Ambassador Booth Gardner on his selection as the 1997 recipient of the World Citizen Award.

The World Affairs Council is a 1,200 member nonprofit organization of business and community leaders with more than 40 years of experience bringing the world to Washington State. From the widely popular Public Programs, which includes the annual lecture series to the nationally recognized International Visitors Program, the World Affairs Council has been an instrumental force in bringing together varied and diverse cultures as well as exposing Washington State to changing political environments around the globe and the importance of international trade.

Booth Gardner was first elected to public office in 1972 where he served 3 years as a State senator followed by election as Pierce County Executive in 1980. In 1984, Booth Gardner realized his boyhood dream with his election to Washington's governorship. A widely popular Governor, Booth was re-elected to a second term in 1988.

As Governor of the most trade dependant State in the Nation, Governor Gardner was exposed on numerous occasions to the importance of international cooperation and negotiation. Trade missions to Europe and Asia allowed Governor Gardner to boost Washington's ties abroad creating new business, cultural, and educational opportunities.

After completing his second term, Governor Gardner was appointed by the newly elected President Clinton to become the first U.S. ambassador to the World Trade Organization. Assuming the much deserved title of Ambassador, Booth Gardner played a major role in shaping this important organization and particularly representing U.S. interests. Throughout his service to the WTO, he carefully balanced the needs of the United States with the goals of multilateral cooperation. Ambassador Gardner set the standard for U.S. participation at the WTO.

Congratulations Ambassador Booth Gardner. Your public service from Washington State to capital cities throughout the world makes all of Washington very proud.•

FEDERAL STATISTICAL ACT OF 1997

• Mr. BROWNBACK. Mr. President, yesterday Mr. MOYNIHAN, Mr. THOMPSON and Mr. KERREY joined me in introducing the Federal Statistical System Act of 1997. This legislation will also be introduced in the House by Representatives HORN and MALONEY. This commonsense piece of legislation will improve the quality of an important function of the Federal Government while reducing its cost.

The current Federal statistical system is in disarray. There are more than 70 Federal agencies responsible for gathering and analyzing statistics. Many of these agencies expend resources attempting to gather the same information from the same sources. This duplication is unnecessarily burdensome on both taxpayers and respondents. Although a small group of people in the Office of Management and Budget [OMB] is nominally responsible for coordinating Federal efforts, no one in the Federal Government is held accountable for maintaining the quality of the Government statistics or overseeing the modernization of the statistical system.

The Federal Government spends $2.6 billion each year to finance this thicket of Federal statistical programs. Yet, in spite of the resources we dedicate to gathering and analyzing statistics, Americans have lost confidence in the quality of Government data. For example, over the past several years, a debate has raged over the accuracy of the Consumer Price Index. According to the General Accounting Office, the 1990 census was inaccurate and the 2000 census is a high-risk project that may produce unsatisfactory data again. And, according to a recent Wall Street Journal article, the Department of Treasury is unable to account for the source of billions of tax receipts this year.

Mr. President, the Federal Statistical System Act of 1997 is a necessary first step to consolidate the Federal statistical system and improve the quality of Government data. This legislation would establish a Federal Commission on Statistical Policy to recommend how the Federal statistical system should be reorganized and streamlined, and to draft legislation to consolidate the three largest Federal statistical agencies—the Bureau of the Census, the Bureau of Labor Statistics, and the Bureau of Economic Analysis—into a single Federal Statistical Service.

After the Federal Statistical Service legislation is enacted, the commission shall then study and develop recommendations on which other Federal statistical organizations should be consolidated, eliminated or reorganized. The commission shall also make recommendations on issues regarding privacy of information collected by the Federal government, the use of statistical data in Federal funding formulas, and standards of accuracy of Federal data.

Finally, Federal Statistical System Act of 1997 will allow the Federal Government to reduce further the cost and improve the accuracy of statistical programs while reducing the reporting burden on respondents. This will be achieved by certain agencies to share nonidentifiable statistical information, exclusively for statistical purposes. This provision will also ensure that existing avenues and limitations for public access to Government information under the Privacy Act of Freedom of Information Act are retained without change.

Mr. President, we cannot improve the effectiveness and reduce the cost of Government programs unless we have a firm grasp on the measures we use to implement and judge them. We cannot make an accurate assessment of our economic progress unless our relevant activity in today's economy is measured. Finally, we cannot make informed assessments on the state of our urban or rural areas and communities unless we have accurate and meaningful economic and social indicators. I believe Federal Statistical System Act of 1997 is an important first step in streamlining Government and improving the quality of Government information, and I urge my colleagues to support this measure.•

HEROES SHINE IN NORTH DAKOTA FLOOD

• Mr. DORGAN. Mr. President, I rise today to draw the Senate's attention to some truly remarkable people, people whose work speaks volumes about what special people North Dakotans are.

As my colleagues in the Senate are well aware, one of the Nation's worst weather-related disasters this year was the devastating flooding in Grand Forks, ND, and the entire Red River Valley. This historic flood captured the attention of the Nation in late spring as over 95 percent of the residents of Grand Forks and East Grand Forks were evacuated from their homes and much of North Dakota's second largest city's downtown district was ravaged by fire and water.

History will have a dramatic record of the loss and devastation of the flood. The hardship and heartbreak endured by so many of our friends and neighbors will be forever etched into our memory.

But this year has also shown that North Dakota is a State blessed with wonderful and resilient people, and with real-life heroes. It's often said that difficult times bring out the best in people, and that certainly was the case in North Dakota. So now that a few months have passed since the waters have subsided, I would like to take a moment to reflect back on some of the many heroes, people that stepped up when their community needed them, whose efforts shined in the midst of the rising waters.

In a disaster, maintaining a working communication system is critical in fighting back and preserving the safety of those in the area. Today, I would like to recognize the efforts of several US West Communications employees who worked tirelessly to maintain critical telephone service to the Grand Forks area throughout the flooding.

On April 19, 1997, before the flooding hit Grand Forks, a crew of nine central office technicians barricaded themselves into the US West building in the heart of the city to keep the area's communication systems up and running during the disaster. Their extensive preventive work to prepare for the flooding would soon be tested as the waters rushed into town. As the entire city was evacuated, their building was surrounded by 4 feet of water, and sat just one block away from a raging fire. But these brave men and women hung in and sustained phone service, service which was essential to the rescue and recovery efforts of the Federal Emergency Management Agency, the Federal Aviation Administration, State and local emergency workers, and so many others in the flooded region.

To give you an idea of the challenges facing each of these brave heroes, they labored alone, night and day to keep the wires dry as 26 inches of water threatened basement cables. Sustained by the food, clothing, and cots delivered via boat by the National Guard, these folks stayed on in a flooded town whose entire population had been ordered to leave. Armed with only high-volume pumps, drying machines, and sandbags, these courageous people kept the communications system working.

These heroes deserve to be recognized by name for their dedicated service. The members of the initial emergency team were: Denny Braaten, Linda Potucek, Larry McNamara, Bob Schrader, Dan Kaiser, Dale Andrews, Glenda Wiess, Rick Hokenson, and Lew Ellingson.

Two days later, US West reinforcements arrived to provide additional support and hard work. I would like to recognize these workers now: Don Jordan, Ray Jacobsen, Tim Kennedy, Roger Jones, Bruce Bengston, Gary Boser, Jim Falconer, Bion McNulty, Jack Olson, and Tim Rogers.

These people, along with the many others who volunteered and continue the rebuilding effort today, are part of the story of this year's flood that doesn't get told nearly enough, of people helping their neighbors in extremely hard circumstances, and of extraordinary acts of heroism performed by everyday people.

I can't express my admiration enough.•

STRIPED BASS CONSERVATION ACT AMENDMENTS OF 1997

• Mr. CHAFEE. Mr. President, I rise today in support of H.R. 1658, the Atlantic Striped Bass Conservation Act Amendments of 1997. This legislation will allow the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to continue their important work with the States to ensure the continued recovery of the striped bass fishery.

The striped bass, commonly called rockfish in this area, is an anadromous fish which lives in marine waters during its adult life and migrates to a freshwater river stream to spawn. On the Atlantic coast, striped bass range from the St. Lawrence River in Canada to the St. Johns River in Florida. They are migratory, moving along the coast primarily within the three-mile zone which is subject to State fishery management. Adult habitats include the coastal rivers and the nearshore ocean and are distributed along the coast from Maine through North Carolina. Because striped bass pass through the jurisdiction of several States, Federal involvement in conservation efforts are necessary.

A severe population decline, which began in the 1970's, raised serious concerns about the sustainability of the striped bass fishery. In 1979, I offered an amendment to the Anadromous Fish Conservation Act that directed the Fish and Wildlife Service and the National Marine Fisheries Service to conduct an emergency study of striped bass. The study found that, although habitat degradation played a role, overfishing was the primary cause of the population decline.

In 1981, the Atlantic States Marine Fisheries Commission prepared the first coast-wide management plan for the Atlantic striped bass. In 1984 Congress enacted the Striped Bass Act in 1984 to ensure that the States would comply with the plan. The act, which includes funding authority for a Federal striped bass study, has been amended in 1986, 1988, and 1991. The most recent reauthorization bill expired at the end of fiscal year 1994.

Under the Striped Bass Act, States are required to implement management measures that are consistent with the Commission's plan for the conservation of striped bass. The act authorizes the Secretaries of Commerce and the Interior to impose a moratorium on striped bass fishing in any state that is not in compliance with the Commission's management plan. The act also authorizes funding for the ongoing striped bass study that was approved by Congress in 1979 in response to the decline in the Atlantic striped bass populations. The Federal study, undertaken jointly by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, provides information on the threats to and the status of the striped bass population and scientific data necessary for sound management decisions.

The striped bass study in 1994 showed that most population indices had returned to pre-decline levels, and the Atlantic States Marine Fisheries Commission declared the species to be fully restored. It is a great testament to the Striped Bass Act and the cooperative efforts of the States and Federal Government that the fishery is continually improving.

The striped bass has proven once again that, given a chance, nature will rebound and overcome tremendous setbacks. But it is up to us to help the striped bass receive that chance. Reauthorization of the Atlantic Striped Bass Conservation Act Amendments of 1997 will ensure that the U.S. Fish and Wildlife Service and the National Marine Fisheries Commission will continue to monitor the populations, and collect data that will provide the necessary information needed to make informed decisions essential to maintaining healthy populations of striped bass.

Mr. President, I strongly encourage the Senate to pass H.R. 1658 to continue one of the most significant recovery ever experienced for a coastal finfish species.•

PEOPLE'S LODGE

• Mr. INOUYE. Mr. President, I rise today to address a project that unfortunately was not incorporated in the list of projects to be funded by the Economic Development Administration outlined in the Senate report to accompany the Fiscal Year 1998 appropriations bill for Commerce, State, Justice and the Judiciary.

This project is the People's Lodge—a multi-cultural center designed to serve the urban Indian and Alaska Native populations in Seattle, Washington, and all of the Indian tribes in the Pacific Northwest and Alaska. The People's Lodge represents the next phase of development of the Daybreak Star Center and will include a permanent Hall of Ancestors exhibition, a multiple-use Potlatch House, and an exhibition gallery, the John Kauffman, Jr. Theater, a resource center, and the Sacred Circle of the American Indian Art.

The federal funding for this project—approximately $13 million—would be matched by funds from private sources. The private fund-raising efforts are already well-underway.

In the coming days, Senator STEVENS and Senator MURRAY and I will be pursuing this matter directly with the Secretary of the Department of Commerce.

Mr. President, it is my hope that the Economic Development Administration will agree with us as to the merits of this most worthwhile project.•

SANCTIONS POLICY REFORM ACT

• Mrs. FEINSTEIN. Mr. President, I was pleased to join yesterday with the distinguished Senator from Indiana, Senator LUGAR, as a cosponsor of his bill, S. 1413, the Enhancement of Trade, Security, and Human Rights Through Sanctions Reform Act.

This bill is an attempt to bring some order to one of the more vexing foreign policy problems we in Congress face—the question of when to impose unilateral economic sanctions.

Congress has been quick to enact unilateral economic sanctions over the years in response to behavior of foreign nations that we find objectionable. At times, the executive branch has done the same. By one estimate, between 1993 and 1996, the United States imposed unilateral sanctions 61 times on 35 countries.

The question we must ask, and which in my view we fail to ask at times, really is fundamental to the conduct of U.S. foreign policy: Are U.S. interests advanced best by deepening relations or diminishing relations with a country that is not acting as we would like?

Frankly, there is no one answer to this question. The answer clearly varies from case to case. There is no doubt that unilateral sanctions do have a place in our foreign policy tool box. I have voted for them at times, as has nearly every Member of Congress.

However, there is no doubt, as well, that we have imposed sanctions recklessly at times, without due regard to their effectiveness, or to the damage they could cause other U.S. foreign policy interests, the U.S. economy, and our ability to provide humanitarian assistance.

What S. 1413 would do is force Congress and the executive branch to apply the brakes in the occasional rush to impose unilateral sanctions. Our effort is not to prevent unilateral sanctions in all cases, but instead to impose a more judicious process that we should follow before they are imposed. This process is designed to create some breathing space—time to adequately consider both the possible impact of unilateral sanctions on other U.S. interests, and whether there are other policy alternatives that might be more effective than unilateral sanctions.

It will also ensure that when we do pass unilateral sanctions, we do not lock ourselves into a policy that deprives us of all flexibility. By making Presidential waivers and a 2-year sunset policy standard practice for the imposition of unilateral sanctions, we will ensure that we are not forced to perpetuate a policy that is not working, has become outdated, or is excessively damaging U.S. interests in other areas.

It is worth repeating that nothing in this legislation will prevent us from passing unilateral sanctions into law. This bill is merely designed to bring

some order and discipline to the process. I want to commend the Senator from Indiana for his leadership in this area, and I look forward to working with him to pass this bill into law.•

SUPPORT THE COMPREHENSIVE TEST BAN TREATY

• Mrs. MURRAY. Mr. President, I rise to join a number of my colleagues in speaking briefly about one of the most important issues that will come before the Senate next year in the second session of the 105th Congress.

In late September, President Clinton submitted the Comprehensive Test Ban Treaty to the Senate for ratification. The President's transmission statement includes the following:

The Conclusion of the Comprehensive Nuclear Test-Ban Treaty is a signal event in the history of arms control. The subject of the treaty is one that has been under consideration by the international community for nearly 40 years, and the significance of the conclusion of negotiations and the signature to date of more than 140 states cannot be overestimated. The Treaty creates an absolute prohibition against the conduct of nuclear weapon test explosions or any other nuclear explosion anywhere. . . . The Comprehensive Nuclear Test-Ban Treaty is of singular significance to the continuing efforts to stem nuclear proliferation and strengthen regional and global stability. Its conclusion marks the achievement of the highest priority item on the international arms control and nonproliferation agenda.

I commend the President for his leadership on this issue. I look forward to working closely and in a bipartisan fashion to secure prompt ratification of the CTBT. I will do absolutely everything I can to support the passage of the Comprehensive Test Ban Treaty. I expect a spirited debate on the CTBT including vigorous opposition from some who continue to believe in nuclear expansion and experimentation.

Several Senate hearings have recently been held and I urge the body to move forward in a timely and deliberative manner early in 1998. As a member of the Appropriations Energy and Water subcommittee with funding responsibility for nuclear weapons activities including stockpile stewardship, I look forward to actively participating in Senate consideration of the Comprehensive Test Ban Treaty.

Mr. President, at this point, I ask that a brief titled, "Ten Reasons for a Comprehensive Test Ban Treaty," be printed in the RECORD. This information was prepared by a nongovernmental organization in support of CTBT ratification.

The material follows:

Ten Reasons for a Comprehensive Test Ban Treaty.

1. THE CTBT WOULD GUARD AGAINST THE RENEWAL OF THE NUCLEAR ARMS RACE

The Comprehensive Test Ban Treaty would limit the ability of nuclear weapons states to build new nuclear weapons by prohibiting "any nuclear weapon test explosions and all other nuclear explosions." The ban on nuclear explosions would severely impede the development of new, sophisticated nuclear weapons by the existing nuclear powers. While countries could build advanced, new types of nuclear weapons designs without nuclear explosive testing, they will lack the high confidence that the weapons will work as designed. Thus, the Treaty can impede a nuclear arms buildup by five declared and three undeclared nuclear weapon states.

2. THE CTBT WOULD CURB NUCLEAR WEAPONS PROLIFERATION

Under the Comprehensive Test Ban Treaty, "threshold" states would be prevented from carrying out the types of tests required to field a modern nuclear arsenal. While a country could develop nuclear weapons for the first time without conducting nuclear explosions, the bomb design would be fare from optimal in size and weight and its nuclear explosive power would remain uncertain. The CTBT is therefore vital to preventing the spread of nuclear weapons to additional states, where these weapons could destabilize international security.

3. THE CTBT WOULD STRENGTHEN THE NUCLEAR NON-PROLIFERATION TREATY

The conclusion of the CTBT is a key element in the global bargain that led to the signing and the extension of the Nuclear Non-Proliferation Treaty. in May 1995, nonnuclear states agreed to extend that Treaty in May 1995 with the understanding that Article VI measures in the original treaty—like the CTBT—would be implemented. At the May 1995 NPT extension conference, all nations agreed to "The completion by the Conference on Disarmament of the negotiations on a universal and internationally and effectively verifiable Comprehensive Nuclear-Test-Ban Treaty no later than 1996." Ratification of the CTBT would further legitimize U.S. non-proliferation efforts and lay the basis for universal enforcement of the CTBT, even against the few nations that may not sign.

4. NUCLEAR TESTING IS NOT NECESSARY TO MAINTAIN THE SAFETY AND RELIABILITY OF THE U.S. ARSENAL

The U.S. has a solid and proven warhead surveillance and maintenance program to preserve the safety and reliability of the U.S. nuclear deterrent without nuclear test explosions and this program is being augmented through the Science-Based Stockpile Stewardship Program (SBSS). Although some of the projects that are part of the SBSS program are not essential to the maintenance of the stockpile, many objective experts—both critics and supporters of the program—agree that the program can ensure the safety and reliability of the U.S. nuclear stockpile without resorting to nuclear explosive testing.

All operational U.S. nuclear weapons are already "one-point safe" against accidental detonation of the warhead's high explosives, making even low-yield nuclear explosions, known as "hydronuclear" tests unnecessary. in addition, the nuclear warhead designs of operational U.s. nuclear weapons incorporate additional modern safety features. Since instituting a new annual warhead safety and reliability certification process in 1995, U.S. nuclear weapons have been twice certified without nuclear test explosions.

5. THE CTBT IS EFFECTIVELY VERIFIABLE

The CTBT would put into place an extensive, global array of 170 seismic monitoring stations, 80 radionuclide monitoring stations, 11 hydroacoustic monitoring stations, and 60 infrasound monitoring stations to detect and deter possible nuclear test explosions. Monitoring capabilities would be especially sensitive at and around the established nuclear test sites. With this monitoring system, the CTBT would—with high confidence—be able to detect nuclear test explosions that are militarily significant. In addition, the CTBT would provide an additional deterrent against potential test ban violations by establishing on-site inspection (OSI) rights that could allow detection of the radioactive gases leaking from an underground nuclear test.

6. THE CTBT WOULD SUBSTANTIALLY ENHANCE CURRENT U.S. MONITORING CAPABILITIES

Whether or not the CTBT is ratified, U.S. intelligence agencies will be tasked with monitoring nuclear weapons programs of the nuclear powers and the efforts of non-nuclear states and groups to attain nuclear weapons. The Treaty will make that task easier by establishing a far-reaching international monitoring system across the globe that would augment existing national intelligence tools. Clearly, U.S. intelligence capabilities to detect nuclear tests and nuclear weapons development programs would be far better with the CTBT

7. THE CTBT WOULD ENHANCE THE INTERNATIONAL NORM AGAINST NUCLEAR TESTING

If the five declared nuclear weapon states ratify the Comprehensive Test Ban Treaty, it will strengthen the global norm against testing and weapons development that helps make the nuclear "have-not" nations far less inclined to develop nuclear weapons. The U.S. has not tested a nuclear weapon since 1992 when Congress passed and President Bush signed the Hatfield-Exon-Mitchell legislation establishing a moratorium on nuclear testing. This law, which remains in effect, says that the U.S. may not conduct a nuclear test explosion unless another nation conducts a test. CTBT ratification would help bring other nations in line with U.S. policy.

8. THE CTBT IS SUPPORTED BY A LARGE MAJORITY OF THE AMERICAN PEOPLE

The Comprehensive Test Ban Treaty is supported by a large majority of the American people. U.S. public support for a nuclear weapons test ban has remained consistently high since the early days of the Cold War. The most recent poll, conducted in September 1997 by the Mellman Group, revealed that 70 percent of Americans support United States ratification of a nuclear test an treaty.

9. THE CTBT IS THE LONGEST-SOUGHT INITIATIVE TO HELP REDUCE NUCLEAR WEAPONS DANGERS

The Comprehensive Test Ban Treaty marks an historic achievement pursued by Presidents since Dwight D. Eisenhower. For forty years, Presidents and activists have worked for an end to nuclear testing. Previous negotiations have been hindered by international incidents, the failure to compromise at key times, and most importantly, the political dynamics of the Cold War nuclear arms race itself. Ratification of the CTBT would mark an important milestone in the effort to end the nuclear arms race.

10. THE CTBT WOULD PROTECT HUMAN HEALTH AND THE ENVIRONMENT

Since 1945, six nations have conducted 2,046 nuclear test explosions—an average of one test every nine days. These tests spread dangerous levels of radioactive fallout downwind and into the global atmosphere. A 1997 National Cancer Institute Study estimates that fallout from only 90 U.S. nuclear test will

likely cause 10,000—75,000 additional thyroid cancers in the U.S. Underground testing also poses environmental hazards: each blast spreads highly radioactive material underground; many underground nuclear explosions have vented radioactive gases. The Energy Department reports that 114 of the 723 U.S. nuclear tests since 1963 released radioactive material into the atmosphere.•

INTERNAL REVENUE SERVICE IMPROVEMENT

• Mr. HOLLINGS. Mr. President, I come to the Senate floor today to bring to my colleagues' attention the games being played by the majority regarding needed reforms at the IRS.

On one hand, the people want IRS reform, and only the Senate stands in the way. The House overwhelmingly passed an IRS reform bill, 426 to 4, and the President is waiting to sign it into law. But the Senate leadership says "no way, we can't begin fixing the IRS we have to get home for the holidays." So the taxpayer will have to wait for needed reforms making the IRS more user friendly. This means changes aimed at helping the American taxpayer deal with the IRS will be unnecessarily delayed and taxpayers will see little change in the IRS. Instead of a new IRS oversight board bringing new and more taxpayer friendly services, Americans who are dutifully paying their taxes will see the same old IRS—business as usual. Instead of permitting taxpayers to recover up to $100,000 for negligent collection actions, the taxpayers will continue to fight an uphill and seemingly impossible battle when challenging an IRS ruling.

We all were appalled by some of the IRS practices recently highlighted in Congressional hearings and we all agree there is no place in government for these abuses, yet when given the chance to begin to remedy them, the Senate Leadership refuses to act.

As a cosponsor and supporter of the Taxpayer Bill of Rights and the Taxpayer Bill of Rights II that provided for increased taxpayer protection, I urge the Senate to take the next much needed step and pass the Internal Revenue Service Improvement Act.

In my mind it is outrageous that at the same time we have the Senate refusing to act on the IRS Improvement Act, the majority is attempting to spend $100 million of taxpayer's money to conduct a poll to find if U.S. taxpayers like the IRS. I can't imagine what new information this will provide. We all know that most Americans don't like the IRS. We all know it is government's most disliked agency. Spending $100 million to determine whether people like it seems a huge waste of money. This is nothing more than the Republican Majority using hard earned taxpayer dollars for their self-serving political theatrics. Why not make taxpayers give the Majority $100 million dollars worth of stamps and copying machines to run their 1998 election campaign. Does the Leadership really need to spend an extra $100 million to find out that most Americans don't like paying taxes.

This is the most outrageous and hypocritical use of taxpayer funds that I have seen in my forty years in politics. Yes, there have been other abuses and scams defrauding the American taxpayer, but none more blatantly political and painfully obvious.

If we want to add $100 million in federal spending why use it for partisan political purposes to prove what we all already know. Instead let us use this $100 million for real government such as constructing 1,325 additional federal prison beds or incarcerating 4000 more federal prisoners. Or maybe we could add 725 new border patrol agents or enroll 20,000 more children in headstart. We could also add 55,300 new summer jobs or train 27,600 low income adults. I am sure most of my colleagues hear a constant cry back home for more spending to improve roads and highways, certainly South Carolina could use $100 million for roads. As I understand, $100 million would resurface 670 miles of highway. At a time of mounting transportation needs, spending federal funds for an IRS poll seems ridiculous.

Mr President, let me conclude by stating the obvious. Spending $100 million of taxpayer money on an IRS poll does not help a single taxpayer. In short, it is a huge waste of money. If we want to assist taxpayers, if we want real reform, we should pass the IRS Reform bill now. I urge the Majority Leader to free the IRS Reform bill, let the Senate vote and begin providing relief to the American taxpayer.•

SHORT TERM EXTENSION OF ISTEA

• Mr. REID. Mr. President, I served on the Committee on Environment and Public Works when the original ISTEA bill was written. I believe ISTEA has been one of the most important, innovative pieces of legislation ever to pass the United States Congress. Our stated goal was to turn over more spending power and authority to the states and localities while maintaining a strong national transportation system.

In the last 6 years we have made great progress and, when we are finally able to pass a bill, I feel confident that ISTEA II will carry us further in the same direction. Until we get to that point, the Congress must must pass a short-term measure that ensures that the state programs remain stable while we are finishing work on the reauthorization.

ISTEA made the states partners with the federal government in building and maintaining a strong transportation system. Leaving them in the lurch now would be no way to treat a partner. I believe the Congress needs to pass a short-term extension to ISTEA to ensure continuity in the state programs and to live up to our obligation to the American people to provide a world-class transportation system.

I am delighted that the Senate passed this short term extension by unanimous consent last night, putting aside regional differences over formula funding. I am hopeful that the House will respond quickly and that we will be able to go home knowing that we have done the right thing for the states and the American people.

Senator BOND, the primary author of this approach, takes care of our short term needs and he deserves our praise for developing it and selling it to all of his colleagues while under tremendous time pressures. State programs will continue, but we keep the pressure on ourselves to get the 6 year reauthorization done.

Several of my colleagues have came to the Floor last night to explain how the bill works and I will not repeat their effort. However, I do want to offer high praise to Senator CHAFEE, Senator BOND, Senator BAUCUS, and Senator WARNER for developing a measure that will work and has the support of the Senate.

Additionally, I would like to offer thanks to key members of their staff for their hard work and late hours, not only this week but throughout the year, Kathy Ruffalo of Senator BAUCUS' staff, Dan Corbett of Mr. CHAFEE's staff, and Ann Loomis of Senator WARNER's staff have put in tremendous hours of hard work this year developing a 6 year reauthorization of ISTEA, a bill that passed the Committee on Environment and Public Works unanimously.

Additionally, Tracy Henke of Senator BOND's staff did top notch work in putting together the Senate's short term extension bill and I am grateful for her efforts.

In particular I want to thank the Chairman and Ranking Member for accommodating my request to include the Federal Lands Highway Programs in the bill. For states, such as mine, that have vast holdings of public lands, the Federal Lands Highways Programs are a vital part of our transportation network.

There are three programs that make up the Federal Lands Highway Program:

Public Lands Highway Program for roads and maintenance on federal lands. Eighty-seven percent of Nevada is federally-owned;

Indian Reservation Roads Program for roads and maintenance on Indian reservations; and

Parkways and Park Highways Program that funds roads and maintenance within National Parks.

These programs serve as a transportation lifeline for the vast rural, federally-owned areas that blanket the

Western United States. The federal government has a duty and obligation to build and maintain roads on federal lands. It would be unreasonable for the federal government to ignore the needs of citizens living in these areas.

If the goal of today's action is to keep the state highway programs running until we complete work on the reauthorization of ISTEA, then it is critical that the Federal Lands Highway Program be included.

Nevada has become the most urbanized state in the Union; a higher percentage of our population lives in urban areas than in any other state. Coupled with the dramatic growth Nevada is experiencing, it is difficult for the rural areas to get the attention they need and deserve without these programs. They are an absolutely essential piece of Nevada's state program.

Again, I thank my colleagues for recognizing the unique needs of Nevada and other vast public lands states and for including funding for the Federal Lands Highway Programs in this bill.

We still have a long ways to go in reaching a short-term compromise with the House, but after the Senate's actions last night, I am confident that we will get there.•

THE SURFACE TRANSPORTATION EXTENSION ACT OF 1997

• Mr. LAUTENBERG. Mr. President, I rise to comment on S. 1454, the Surface Transportation Extension Act of 1997, which the Senate adopted last night. This bill allows States to obligate funds for six months, to ensure that transportation funding continues to flow for highways, mass transit and safety programs. In addition, this bill will enable continued operation of the United States Department of Transportation.

Each state will be assured access to transportation funds equaling at least 50 percent, and not more than 75 percent of the state's total transportation funding in FY1997. Moreover, states will have until May 1, 1998, to obligate those funds. No state will be able to obligate Federal funds after that date.

Every member should understand that this approach essentially creates another transportation funding crisis in only a few short months. This is far from a comfortable situation.

Next year, when we take up the ISTEA reauthorization bill, we will be in the middle of the FY99 budget discussions and a decision about whether to allocate new funds that may become available as a result of improved budget projections. So, the debate over ISTEA, and the reality of another funding cutoff, will likely coincide with discussions over the FY99 Budget Resolution. As the Ranking Democratic Member of the Budget Committee, I can assure you that I will be doing my best to make additional investment in our transportation infrastructure a high priority during these discussions.

Mr. President, when it became clear over one month ago that there was not enough time to fully debate a multiyear authorization bill, I starting calling for enactment of a short-term extension of ISTEA. This was the logical approach toward ensuring that States' transportation funding would not run dry.

The States need additional funds now to meet their immediate transportation needs. ISTEA expired over a month ago, and although States have funding left over from previous years, these available funds will begin to run dry very soon for many States. Highway safety programs have been particularly hard hit because they have no leftover funding. Mass transit programs have no funding reserves.

A straightforward reauthorization of ISTEA for six months is, to me, the easiest and fastest way to proceed. A House bill to do just that is currently pending on the Senate calendar. By simply continuing current law, this short-term extension also bypasses the controversy caused by enacting changes to the existing funding formulas or apportionments. In addition, passage of the House extension bill would allow us to immediately send this legislation to the President, rather than having to begin new discussions in a conference with the House. However, I understand that controversy is in the eye of the beholder, and there is a feeling among many in this body that allocation of new money will inevitably result in a discussion of formulas. So here we are.

Mr. President, in the absence of a six month extension of current law, I reluctantly support the Bond compromise, which identified those needs that had to be addressed in a stop-gap measure.

Mr. President, it is imperative that by the time Congress adjourns this year, both the House and Senate agree on an approach and send a bill to the President that can be signed into law. It is clear to most, that failure to enact some stopgap measure before we adjourn will have a severe impact on the transportation programs of the States. All State plans for new transportation construction, maintenance, and repair activities will be stopped. State transit agencies, metropolitan planning organizations, safety programs, and State planning and bidding activities will immediately suffer from funding shortages. Without a bill, important agencies within USDOT will shut down by mid- to late December. As a result, no projects involving Federal funding could go forward. This would have a huge impact on the States. Federal funds pay for over half the capital costs of State and local highway projects.

The situation is even more bleak for all the other programs authorized under ISTEA—the safety programs, Intelligent Transportation Systems program, research programs, and—something very important to my state—the federal transit program. There are no funds left over to continue these programs.

Perhaps the most distressing effect of our failure to act is the safety risk imposed on our constituents, as drunk driving prevention programs, truck and bus safety enforcement, bridge inspections, and highway/rail crossing projects are suspended. For safety reasons alone, we must ensure that some authority is extended. This bill does just that.

While this bill is important, I do have some concerns. Under this bill, States would have the flexibility to shift unobligated balances among programs to ensure that states can use their scarce funds where they are most needed. For instance, a State could use its left-over CMAQ or enhancement funds to pay for a highway construction project. Language is included to prevent States from abandoning the responsibility to pay back the accounts from which they transferred funds. I remain concerned that these pay-back provisions will not be honored. States must be strictly required to pay back all of these transfers, including transfers from their CMAQ accounts, otherwise valuable programs, critical to our Nation's health and welfare, may be depleted. We must watch this closely to ensure that the program is protected.

Mr. President, this bill authorizes the additional funding needed to keep crucial safety programs running, to allow States to continue their transportation projects and plans, to keep the U.S. Department of Transportation operating, and to continue the federal transit program for six months. Although this bill will most likely lead to yet another funding crisis in the near future, I want to do all I can to make sure that the Senate does not adjourn without somehow addressing the lapse in transportation funding. I prefer a straight extension of current law, and urged Senator LOTT to bring it up. However, he rejected that path. Since that option is not before the Senate, I support this proposal as an acceptable compromise to carry us over until an ISTEA reauthorization bill is passed into law.•

SUPPORT U.S. ENCRYPTION EXPORTS

• Mrs. MURRAY. Mr. President, I rise to discuss an issue of great importance to Washington state. I remain deeply concerned about the Administration's lack of progress in working with interested Senators and industry to craft a

workable, effective solution for modernizing the United States export controls on products with encryption capabilities. I have been involved in this debate for a long time, too long. We need to take action.

I am an original cosponsor of several encryption legislative initiatives introduced by Senator BURNS and Senator LEAHY. Both of these Senators continue to do extraordinary work on this issue and I commend them for their thoughtful leadership. The Burns and Leahy bills basically say that if strong encryption is generally available or comparable encryption is available from foreign vendors, then our U.S. companies—the ones dominating the computer industry—should be able to sell their products as well. Previously, I also introduced similar legislation on encryption.

I simply do not understand the Administration's continued refusal to acknowledge technological and marketplace realities when it has embraced the use of technology in so many ways.

Computer users are demanding the ability to communicate securely over the Internet and to store data safely on their personal computers. We have all heard the stories about hackers monitoring our communications and even financial transactions, while at the same time gaining access to our hard drives while we are looking at a certain website. Until consumers have confidence that transactions and communications are secure, I do not believe that we will ever see the full potential of the communication technologies that are currently available and those to be developed in the future.

I was hopeful late last year that the Administration had taken a very small, positive step on encryption exports. Instead, the result was basically the status quo. Computer software publishers and hardware manufacturers are still limited to shipping the same old 40-bit encryption unless they agree to design key recovery systems according to a government mandated standard. Ultimately, due to economics and marketing issues in the computer world, most Americans are still limited to this 40-bit strength encryption as well, because our companies develop one product for worldwide distribution.

What will it take for the federal government to learn that consumers are opposed to having "Big Brother" interfere with their technology choices. We all remember the failed Administration attempts on Clipper I and Clipper II. Yet, the federal government persists in its efforts to peek into the private lives of law-abiding American citizens. The latest salvo by FBI Director Louis Freeh in demanding government mandated encryption for domestic users is the latest example of government obstruction of private decisions by American consumers and business opportunities for American innovators. If Director Freeh gets his way, the federal government will have even greater authority to peer and peek into the private lives of American citizens. "Big Brother" as feared by law-abiding Americans has a powerful champion at the Federal Bureau of Investigation.

While this war of attrition is taking place, we are losing in the trenches. Foreign vendors are happily supplying stronger 128-bit encryption to our foreign purchasers. Some of these vendors have publicly thanked the U.S. government for helping them to develop thriving businesses. Importantly, current U.S. policy represents a surrender of an industry where our innovative workers and companies are technologically superior. We are surrendering jobs and economic opportunities both today and for the long term. There are many examples from my own State of Washington, usually small start-up firms eager to grow, diversify and develop new high-tech applications in computer hardware and software. These firms regularly point out to me the names and business histories of their foreign competitors that have gladly taken business opportunities from Washington firms restricted by ineffective government mandates.

It is time for the United States to acknowledge that we no longer exclusively control the pace of technology. Purchasers around the world can download software off of the Internet from any country by simply accessing a website. Foreign purchasers have turned to Russian, German, Swiss and other foreign vendors for their encryption needs. We are truly trying to put the genie back in the bottle—a genie so nimble that it can transfer in seconds from one location to another using a modem over a traditional telephone line.

U.S. law enforcement seems to believe that Americans will recapture this market once our industry has developed key recovery systems for 128-bit or stronger encryption technology. This is extremely naive in my opinion. All the world will know that the U.S. government approved export technology will enable U.S. law enforcement to view encrypted information. Most foreigners believe the U.S. government will use this capability to spy on them; for law enforcement, political and economic information. Foreigners will simply buy elsewhere, period. It's pretty simple to me. What foreign entity would want to surrender information to the U.S. government when they can easily avoid this by purchasing someone else's product?

Again, I turn to the approach advocated by Senator BURNS and Senator LEAHY. S. 909 as adopted by the Senate Commerce Committee simply does not go far enough. While it makes some minor modifications to export controls, it also goes in the totally wrong direction by starting down the path of domestic controls on encryption.

Washington State and American companies deserve the opportunity to compete free from government restrictions. Their role in the international marketplace should be determined by their ingenuity and creativity rather than an outdated, ineffectual system of export controls. The time to act is now, the longer we wait, the further behind America gets on this issue.•

RECOGNITION OF GIRL SCOUT GOLD AWARD RECIPIENTS

• Mr. JOHNSON. Mr. President, I want to take this opportunity today to recognize Misty Hansen of Girl Scout Troop 1080. Misty is an outstanding young woman who has received the Girl Scout Gold Award from the Nyoda Girl Scout Council in Huron, South Dakota. The Girl Scout Gold Award is the highest achievement award in U.S. Girl Scouting. This award exemplifies her outstanding feats in the areas of leadership, community service, career planning and personal development.

Misty is one of just 20,000 Gold Award recipients since the creation of the program in 1980. In order to receive this award, Misty completed the many Gold Award requirements. She earned three interest project patches: the Career Exploration Pin, the Senior Girl Scout Leadership Award and the Senior Girl Scout Challenge. Also, she created and executed a Girl Scout Gold Award project which included researching the history of the first 30 years of the Nyoda Girl Scout Council.

Mr. President, I feel Misty deserves public recognition for her tremendous service to her community and her country. I offer my congratulations to her for her hard work and effort in reaching this milestone.•

JOSEPH HENRY, THE SMITHSONIAN AND FREDERICK SEITZ

Mr. MOYNIHAN. Mr. President, Friday, the 7th of November 1997, on the occasion of the bicentennial of the birth of Joseph Henry, the Joseph Henry Medal was presented to Dr. Frederick Seitz at a dinner of the Smithsonian Council. Clearly, this was a special occasion, and it was singularly appropriate that Frederick Seitz should be the honoree. The citation of the splendid gold medal reads:

> The Board of Regents gratefully presents the Joseph Henry Medal to Frederick Seitz in recognition of his manifold contributions to The Smithsonian Institution. His advancement of the Smithsonian's research and educational programs in the sciences, history, and the history of science has exemplified the ideals of James Smithson's mandate . . . "for the increase and diffusion of knowledge."—May 4, 1997.

Having received the medal, Dr. Seitz, with his enormous erudition and no less prodigious self-effacing manner, presented a paper of great interest. Entitled, Joseph Henry: 200th Anniversary

of Birth, he wrote of the belated appearance of science as a large-scale activity in the American Republic, but also of four early pioneers: Benjamin Franklin, Benjamin Thompson, Henry A. Rowland, and Joseph Henry himself. Which of us would know that Franklin discovered the Gulf Stream? That is just one of the absorbing details of this fascinating disquisition. I ask that it be printed in the RECORD in honor of Frederick Seitz, Joseph Henry, and all that splendid company.

The material follows:

JOSEPH HENRY; 200TH ANNIVERSARY OF BIRTH

When I first heard the rumor that I would receive the Joseph Henry Medal on this special anniversary, I assumed it was a case of mistaken identity. Very friendly calls from Senator Moynihan, Homer Neal and Marc Rothenberg, however, finally carried conviction. Needless to say I will continue to experience a sense of awe in playing a role on this special anniversary since the scientific community, of which I have been part for most of my life, owes so much to Henry, as I shall presently relate.

Our country, had so many difficult practical problems to solve in its early days, that it did not take much interest in the fundamental aspects of science, in contrast to the European countries, until the end of the nineteenth century, that is, about a hundred years ago when it created what was then called the National Bureau of Standards. Even this step had a very practical aspect since we were encouraging exports and wanted to be in tune with standards of manufacture internationally as well as at home. It is true that we did have the closely linked Smithsonian Institution and National Academy of Sciences at that time. However their existence was in the last analysis tied closely to the unsolicited gift in 1832 of James Smithson, an English scientist who admired the promises for the future of mankind that our republic offered. Moreover, he felt that it was inevitable that we would eventually become deeply involved in the pursuit of basic science.

Even though our country did not encourage the development of the basic sciences until the century we are now leaving behind, we did manage to produce from our own soil a few world-class scientists, including four truly great physicists, not least Joseph Henry, during the previous two centuries. I would like to say a few words about each.

The first was no less a person than Benjamin Franklin, born in Boston in 1706, but more generally linked to Philadelphia, his adopted home. We all know about the experiment with lightning and the kite and his research with lightning arrestors, however, this is only part of the story. He discovered, as a result of extensive correspondence, that our continental weather tends to have a strong eastward drift; he discovered what we now term the Gulf Stream which encircles the Atlantic Ocean, although he falsely ascribed it not to winds and Coriolis forces, but to the influence of the emergence of a yet undiscovered underground river.

Perhaps even more remarkably, he was apparently the first person to provide a good measure of molecular dimensions. He noted that when a quantity of the right kind of oil is poured onto water it spreads rapidly at first, but then stops spreading and retains cohesion. He concluded that the thickness of the oil film at the point of maximum spread must be linked to what we would now term the size of its molecular constituents. Using measured quantities of oil he obtained an entirely reasonable value for those dimensions.

The second great scientists, namely Benjamin Thompson, is probably entirely unknown to many of you. He was born in Woburn, in what was then the colony of Massachusetts in 1753, and developed a strong interest in science during his youth. He was not sympathetic to the Revolution and moved to England in 1776 where he joined the military and served throughout the war as an administrator. In 1794, after serving in various roles in England and on the continent he was offered a high post in the Bavarian government which he held for eleven years. There among many other activities he supervised the boring of canon in the royal arsenal. Being highly observant, he noted that the extent to which the canon became heated during the drilling was essentially proportional to the length of time the drilling had taken place. He concluded that the heat content of the metal was a form of energy closely related to the energy of work. This proposal stood in sharp contradiction to the popular theory of the time to the effect that heat was the manifestation of the presence of a special weightless fluid called phlogiston. He wrote a convincing treatise on this topic, thereby opening the doorway to the field of thermodynamics and statistical mechanics which occupied some of the best scientific minds during the next century. I should add that the great Chemist Lavoisier, who was guillotined in 1794 and whom Thompson knew, had also come to the conclusion that the phlogiston theory must be wrong. Thompson's treatise pointed the way to a new positive approach.

Thompson, incidentally, joined with Joseph Banks, the President of the Royal Society in establishing the Royal Institution in London where Humphrey Davy and Michael Faraday later carried out their great researches and gave popular public lectures on science. It is easy to imagine that Smithson had the Royal Institution in mind as a role model for our country when he gave the money to create the Smithsonian. I should also add that Thompson came to terms with his native land at the end of the Revolutionary War, establishing good relationships with the Massachusetts community.

Skipping chronological order for the moment, the third great American scientist in my list is Henry A. Rowland, born in Honesdale, Pennsylvania in 1848. He received his higher education at the Rensselaer Polytechnic Institute in Troy, New York, and was appointed to the chair in physics at the Johns Hopkins University when it opened its doors in 1876. He carried on research in many areas of physics, but is probably best known for the development of a machine which engraved on a material such as glass so-called diffraction line gratings that were of special use in separating different wavelengths of light. He was also interested in telegraphic equipment and invented a widely used form of teletype machine.

Rowland gained early fame as a result of an experiment he carried out in Europe in the laboratory of Hermann Helmholtz in 1875, the year before he took residence in Baltimore. In the previous decade, the very brilliant Scottish physicists, James C. Maxwell, had collected all known information concerning electromagnetic phenomena and placed it in the form of a mutually consistent set of four mathematical equations, generally known as Maxwell's equations. To achieve what his intuition told him would provide appropriate symmetry and balance in the equations, he modified one of the set of four. In effect, the modification amounted to saying that an isolated, moving electric charge would have a magnetic field related to the velocity associated with it, but one so weak for normal velocities achievable at the time that it would be very difficult to measure. Helmholtz, recognizing that the young American was an exceedingly talented experimenter, suggested that he attempt to measure that field, which Rowland did with ingenuity and notable success in a remarkably short time. It should be added that Rowland had to repeat the experiment twice in later decades in order to convince others who had tried to duplicate his work without success.

I should also add that Maxwell noted that one set of solutions to his modified equations describe free electromagnetic waves traveling with the speed of light in a vacuum. He decided that ordinary visible light must consist of electromagnetic waves. Helmholtz was quick to pick up on this and convinced his brightest young colleague, Henrich Hertz, to look into the matter on a laboratory scale to see if he could generate much longer waves, independent of a light source, using available electrical equipment. The ages of wireless telegraphy, radio, television and radar loomed over the horizon.

It would be equivalent to shipping oil from Texas to Saudi Arabia for me to present a detailed biography of Joseph Henry on this occasion since his background is well known to most of you. In brief, he was born in Albany, New York, just 200 years ago and spent a portion of his early years living with his grandmother in nearby Galway, a few miles west of Saratoga. Incidentally, if you chance to pass through Galway please note the handsome high school building, probably built in the 1920's, which bears Henry's name. He studied at the Albany Academy, which still exists, and early on had difficulty deciding whether to become an actor or a scientist. Fortunately, science won. He began a series of highly innovative experiments with electromagnets and soon discovered the induction of electric fields by changing magnetic fields—the basis for one of Maxwell's equations. Michael Faraday, in England, made the same discovery somewhat later, but published his results before Henry managed to. Never the less the international community has given credit to Henry by naming the unit of measurement of magnetic inductance after him. In connection with this research, he invented the so-called electric transformer, so valuable in alternating current circuits.

Although well established at the Albany Academy, he accepted an appointment at what is now Princeton University in 1832, and continued to carry on his research there, focusing in part on various aspects of telegraphy. Much of his original equipment is well preserved in the physics department.

In 1846 he was offered the post of Secretary of the newly created Smithsonian Institution which he accepted even though he was reluctant to leave the special environment that he had enjoyed at Princeton. He was soon widely recognized as the dean of American science as he developed the new institution into a center for research as well as public exhibitions related to science. He was to serve in the post for thirty two years.

In 1863, when the Civil War broke out, a small group of scientifically oriented individuals in Washington, led by Alexander Bache, a great grandson of Franklin, and Commodore Charles Davis, succeeded in having a bill that created a National Academy of Sciences passed by the Congress. Their intention was to rally the available scientific

community into research associated with the war effort. The bill was sponsored by Senator Henry Wilson of Massachusetts. President Lincoln signed the charter. Henry took an interest in the activities of the new organization from the start, recognizing fully its potentialities. During the course of the war Henry became a good friend of President Lincoln who expressed much admiration for him.

When, at the end of the war, the founders were at somewhat of a loss in deciding what to do with the Academy during peacetime, Henry agreed to become its president and retained leadership until his death in 1878. During that period he essentially made the Academy a temporary wing of the Smithsonian, holding regular scientific meetings, expanding the membership and challenging the members to do everything they could to increase the amount of basic scientific research being carried on in the country. By the time of his death, the National Academy, although still closely tied to the Smithsonian, was a well-running organization prepared to play a major role in guiding the progress of good science in the Republic.

I should add at this point that immediately after World War I, another great Secretary of the Smithsonian, Charles D. Walcott, who had served as the very effective president of the Academy during that war, succeeded in obtaining private funds which made it possible for the Academy to have a new home of its own on Constitution Avenue. Walcott, incidentally, was also a New Yorker, having been born in New York Mills near Utica in 1850.

Our debt to Joseph Henry can perhaps be summarized by saying that, in addition to establishing a high standard for scientific research through his own laboratory work, he encouraged general acceptance of those standards and took leadership in establishing National institutions which could carry them forward. In other words, he did for the promotion of science in our country what Washington had done in helping to establish the republic in which we have the good fortune to live. I can think of no higher praise.•

DANIEL URBAN KILEY, 1997 NATIONAL MEDAL OF ARTS WINNER

• Mr. LEAHY. Mr. President, it is with great pleasure that I pay tribute to Daniel Urban Kiley, a landscape architect from Charlotte, Vermont, who was named by President Clinton as recipient of the 1997 National Medal of Arts. Established by Congress in 1984, this award honors individuals who have made outstanding contributions to the arts in our nation.

My wife, Marcelle, and I have enjoyed the work of Daniel Urban Kiley for many years and I am honored that a Vermonter, and a friend, has received this national recognition.

I ask to have printed in the RECORD a list of Mr. Kiley's accomplishments put together by the awards committee.

The material follows:

As one of this country's most eminent landscape architects, Daniel Kiley combines experience and imagination with the vision to create classic civic design where building and site come together as one. In a professional career spanning over 50 years, Kiley has worked on some of this country's most important commissions along with many of today's most distinguished architects and firms in 16 foreign countries. He has helped design sites including the Washington Mall, the National Gallery of Art East Wing, National Sculpture Garden—all in Washington, D.C. More recently, he worked on the design of the Pittsburgh Cultural Trust plaza and museum, the Soros residence, and Riverfront Park in Corning, New York. He is the recipient of many awards and honors including the 1995 Arnold W. Brunner Prize in Architecture, the Outstanding Lifetime Achievement Award from the Harvard Graduate School of Design, and a 1991 Governor's Award for Excellence in the Arts from the Vermont Council on the Arts. Kiley's work has been shown at the Museum of Modern Art in New York, the Library of Congress, and in traveling national exhibitions. He has lectured extensively and served on many design juries. His work has been widely published in the U.S. and abroad. In 1998, Kiley will publish a book exploring the breadth of his work. He served on President Kennedy's Advisory Council for Pennsylvania Avenue, the National Council on the Arts, the Boston Redevelopment Authority, the Cambridge Redevelopment Authority, the Washington, D.C. Redevelopment Land Agency, and the Vermont Council on the Arts. He also has been a Landscape Architect-in-Residence at the American Academy in Rome. Kiley's designs have been widely cited for their ability to raise public consciousness and enhance awareness of man's relationship to nature, while maintaining a sense of joyousness, fun, and excitement.•

FIRST ANNUAL WORLD EDUCATOR AWARD

• Mrs. MURRAY. Mr. President, I rise to join the Washington World Affairs Council in congratulating Mr. Keith Forest of Decatur High School in Federal Way, Washington, as the very first recipient of the World Educator Award.

The World Affairs Council is a 1,200 member nonprofit organization of business and community leaders with more than 40 years of experience bringing the world to Washington State. Through its many programs, including the Global Classroom, the World Affairs Council has been an instrumental force in educating the people of my State about the world around us; our varied and diverse cultures, changing political and security environments, and of course, the importance of international trade. It is appropriate and noteworthy that this widely respected organization would annually recognize a World Educator in our State.

On December 6, 1997, Mr. Keith Forest will be presented with the World Educator Award. This award recognizes an outstanding teacher of the world including global cultures, contemporary world issues and world languages.

I would like to join the World Affairs Council in acknowledging and recognizing Keith Forest for his invaluable contributions to our children's understanding of the world. Keith Forest has been a teacher for more than 25 years. His own experience as a student of the world has been shared with thousands of students and future leaders.

Mr. Forest does not rely on easily outdated texts to teach about the ever changing world, but instead has designed his own curriculum. As a frequent traveler, Mr. Forest brings to his class slides and videos and stories from around the globe. The posters of Chairman Mao's Cultural Revolution and the pottery shards used by his archeology students are tangible examples of how Keith Forest's teaching brings world history to life.

Mr. Forest has taught social studies at Decatur High School in Washington State for 15 years and his reputation precedes him through the halls. Students line up to take his classes, knowing the hands-on, in-depth exposure they will receive in his class. His passion and enthusiasm for helping his students grasp socio-political concepts and foreign affairs easily transfers to his eager classroom participants.

A Fullbright Scholar, Mr. Forest has studied in Japan, Korea and China and has led numerous expeditions and exchange programs. He wrote the Washington State curriculum on the Holocaust after a trip to Israel. Additionally, he authored the Port of Seattle sponsored curriculum on international trade that is used throughout the State.

Congratulations to Keith Forest and the World Affairs Council. Your work in the classroom echoes through our State and educates us all.•

ADOPTION PROMOTION ACT OF 1997

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 66, H.R. 867.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 867) to promote the adoption of children in foster care.

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

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

AMENDMENT NO. 1614

(Purpose: To provide a complete substitute)

Mr. CRAIG. Mr. President, I have a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 1614.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. ROTH. Mr. President, today, it is my pleasure to support and urge passage of the Promotion of Adoption, Safety, and Support for Abused and Neglected Children Act or the PASS Act for short. This legislation contains the right combination of reforms to dramatically change the child welfare system for the better.

The foster care system reflects a part of modern society which prompts us to ask many questions of ourselves and each other. It is a mirror which can be troubling to look into.

Today, we join the tens of thousands of loving foster care and adoptive families and dedicated professionals who are daily witnesses of the successes and failures in a system through which millions of people pass each year. Each report to a child protective service agency involves a victim and a perpetrator—in most cases, a child and his or her parent. A case may take a single day or many years to close.

Many of these cases are complex and that the length of time in foster care has an effect on the child. Between 1985 and 1995, the number of children in foster care increased from 276,000 to 494,000, an increase of nearly 80 percent.

Much of this increase is due to the hurricane-force waves of drug abuse which continue to unleash their destructive powers on communities and families. Those who believe for even a foolish moment that drug use is a victimless crime are proven wrong by the recent trends in the child welfare system. One need only to look inside the hospital crib of an abandoned crack baby to understand the truth.

The Department of Health and Human Services estimates that 100,000 children currently in foster care cannot return home without jeopardizing their health, safety, and development.

There is great concern that more children are staying in foster care for longer periods of time. The very laws which are intended to protect children may in practice work against their best interests.

The child welfare system itself is complex and is composed of many parts and programs. Although the Federal Government has assumed a greater share of the cost of these programs in recent years, State and local governments still provide the majority of the resources for the child welfare system.

In fiscal year 1997, the Federal Government contributed approximately $5 billion to the child welfare system.

Of this amount, 85 percent was spent through title IV–E programs.

CBO estimates that under current law, outlays for foster care and adoption assistance will increase by more than 50 percent from $3.9 billion in fiscal year 1997 to $5.9 billion in 2002.

Federal funds are used to subsidize about half of the children in foster care and about two-thirds of the children receiving adoption assistance payments.

The Promotion of Adoption, Safety, and Support for Abused and Neglected Children Act includes much needed reform to the child welfare system.

The PASS Act provides that in determining "reasonable efforts," the child's health and safety shall be the paramount concern.

It clarifies circumstances, including murder, voluntary manslaughter, and felony assault under which "reasonable efforts" to reunite families are not required.

It requires the States to initiate or join proceedings to terminate parental rights if a child has been in foster care for 12 of the most recent 18 months.

The PASS Act strengthens the "permanency plan" for children in foster care.

It requires criminal background checks for prospective foster care and adoptive parents and any other adults residing in the household and employees of foster care institutions. The amendment specifies circumstances when approval shall not be granted.

The PASS Act provides adoption incentive payments to the States to increase the number of children which may total $6,000 per child.

It expands the number of child welfare demonstration projects.

The amendment also reauthorizes and expands the Family Preservation and Support Services program and includes reforms to this program.

It renames the program to the Promoting Adoptive, Safe, and Stable Families program.

Funding is increased by $50 million.

The amendment adds adoption promotion and time-limited family reunification services to the program.

It removes geographic barriers to adoption.

The PASS Act requires States to provide for health insurance coverage for adopted children with special needs.

It continues eligibility for adoption assistance payments for children whose initial adoption has been disrupted.

It provides for an annual report on the State performance in protecting children.

The PASS Act requires the Secretary of Health and Human Services to recommend to Congress a new incentive system based on State performance within 6 months.

The PASS Act once again calls upon our State partners to address the problems of a system in much need of reform. This will be the first significant reform of the child welfare system since 1980.

We have enacted sweeping welfare reform and Medicaid reform legislation.

We have created a new partnership with the States through the State Children's Health Insurance Program. The PASS Act calls upon the States to channel their efforts to the child welfare system with the same commitment, creativity, and innovation which led to last year's historic welfare reform legislation.

Last year we worked to free millions of families from the trap of welfare dependency. Let us now work together to ensure that no children will be left without the opportunity to be a part of a loving, safe, and stable family.

There are a number of Senators who deserve our special thanks and recognition for their tireless efforts to bring this bipartisan bill to the floor today.

Without naming them all, let me just thank them and congratulate them for a job well done.

Mr. President, I urge the adoption of the amendment.

Mr. ROCKEFELLER. Mr. President, at least half a million American children are living in this country's foster care system—a system that was never designed and never intended to provide a permanent home for children who have been abused and neglected by their parents. Tragically, many of these children could be adopted, but are forced to wait to become a part of a new family because the current child welfare system has become tired and broken. Most vulnerable among this already fragile population are those children with special needs—children who, without help and strong governmental support, will never have the opportunity to become a part of an adoptive family.

Acknowledging our collective obligation to let no child fall through the cracks of the system—especially those facing severe emotional, physical, and other circumstantial limitations—I am pleased to have the opportunity to lend my vote and full support to the Promotion of Adoption Safety and Support for Abused and Neglected Children [PASS] Act. This legislation, the product of a series of hard-fought and sometimes painful compromises, represents a positive first step in a long journey of essential work to be done on behalf of abused and neglected children.

While many of us properly acknowledge that the journey is by no means over, we would not have been able to come this far had it not been for the unflagging leadership of my good friends and colleagues Senators JOHN CHAFEE and LARRY CRAIG. They are the reason that this unique bipartisan coalition has been able to bring this bill forward. I would also like to express my special thanks to the other hard-working members of the Senate adoption working group who have made this first step possible: Senators JEFFORDS, DEWINE, COATS, BOND, LANDRIEU, LEVIN, MOYNIHAN, KERREY, and DORGAN. Finally, I would like to acknowledge the work of Senator ROTH who has made it possible for this legislation to be fairly considered here today.

The PASS Act will fundamentally and positively shift the focus of the current foster care system by insisting, for the first time in Federal law, that

a child's health and safety and the opportunity to find a loving, permanent home, should be the paramount considerations when a State child welfare agency makes any decision regarding the well-being of an abused and neglected child. The main objective of this bill is to move abused and neglected kids into adoptive or other permanent homes and to do so more quickly and more safely than ever before.

While PASS appropriately preserves current Federal requirements to reunify families when that is best for the child and family, it does not require the States to use "reasonable efforts" to reunify families that have been irreparably broken by abandonment, torture, physical abuse, murder, manslaughter, and sexual assault. Thanks to Chairman ROTH, the legislation includes a new fast track provision for such children in cases of severe abuse. Under the new provision, when reasonable efforts are not appropriate, a permanency planning hearing would be held within 30 days. In practice, this change could yield tremendous results. For example, in the case of an abandoned infant where reasonable efforts are waived, a permanency hearing would be scheduled within the month, and that child could be moved swiftly into a safe and permanent home. To provide balance, the PASS Act requires that the States use the same "reasonable efforts" to move children towards adoption or another permanent placement consistent with a well-thought out and well-monitored plan.

In addition, PASS encourages adoptions by rewarding States that increase adoptions with bonuses for foster care and special needs children who are placed in adoptive homes. Most significantly, the legislation takes the essential first step of ensuring ongoing health coverage for all special needs children who are adopted. Without this essential health coverage, many families who want to adopt children with a range of physical and mental health issues would be unable to do so. I am happy to see that medical coverage, which has always been a vital cornerstone of any program that substantively helps children, is also a key component of this bipartisan package.

Ensuring safety for abused and neglected children is another significant goal of this legislation. PASS seeks to accomplish this goal by ensuring that the "safety of the child" is considered at every stage of the child's case plan and review process. Moreover, the bill requires criminal background checks for all potential foster and adoptive parents and other adults living in the same household.

PASS also cuts by one-third the time a child must wait to be legally available for adoption into a permanent home by requiring States to file a petition for termination of parental rights for a child who has been waiting too long in a foster care placement. At the same time that it speeds adoptions where appropriate, it also gives States the discretion to choose not to initiate legal proceedings when a child is safely placed with a relative, where necessary services have not been provided to the family, or where the State documents a compelling reason not go forward.

At the same time that this bill imposes tough but effective measures to decrease a child's unnecessary wait in foster care, PASS continues investments in strengthening families at the community level by reauthorizing the 1993 budget provision for family preservation and family support for 3 years, with an extra $60 million in funding. This is an innovative prevention program, and this bill's new language encourages States to ensure that adoptive families are also served by the program. As part of a balanced bipartisan package, these programs will support a range of fundamental State services to help parents, children, adoptive families and to improve the court system. This legislation also takes care to assure that children who have gone through adoptions that have been disrupted or whose adoptive parents die will remain eligible for Federal support.

PASS provides a strong foundation for the work that is yet to be done on behalf of abused and neglected children. Years ago, as chairman of the National Commission on Children, I was proud to issue a bold, bipartisan report called Beyond Rhetoric. This report included bold recommendations to reform our current, inadequate system to help abused and neglected children. I am committed to the agenda laid out in this plan and will keep working until we achieve all of its goals for children and families.

The PASS Act is a bold step forward. It has been extremely rewarding to forge such a strong bipartisan consensus to promote adoption and to take key steps in helping every child find a safe, stable, and permanent home.

Mr. HELMS. Mr. President, I am gratified that Congress is today passing legislation to promote the adoption of children in foster care. This legislation is not perfect, but it does clarify that it is in the best interest of every child—regardless of his or her age, race or special need—to be raised by a family who will provide a safe, permanent, and nurturing home.

Congress should be unmistakably clear in expressing this judgment: Foster care children should not be returned to unfit, abusive parents; and the barriers that currently prevent the adoption of foster care children must be lifted. Believe me, Mr. President, there is no shortage of prospective parents. The National Council for Adoption estimates that 2 million couples are waiting to adopt a child. Nonetheless, each year 15,000 children reach adulthood and leave the foster care system without ever becoming part of a permanent home.

Because the current Federal law requires States to make reasonable efforts to reunite children with their biological parents, children have tragically been returned to their abusive and sometimes murderous parents.

Under this adoption-foster care bill, States are not required to make reasonable efforts to reunite children with parents who have murdered another child; committed a felony assault that results in serious bodily injury to a child; or who pose a serious risk to a child's life.

Foster care children who can never return safely home should not be left to linger in the foster care system—which, after all, is supposed to be temporary. Instead, these children should be placed up for adoption, and the parental rights of abusive parents should be terminated so adoption can take place.

Let me be clear, parents who use reasonable discipline in rearing their children are not the parents who should have their rights terminated. This legislation includes language to ensure that reasonable discipline—such as reasonable spanking—is not misinterpreted as an act of abuse. Therefore, no State agency or court shall disrupt a home where parents use reasonable discipline.

What we are talking about, Mr. President, are children who have been taken out of their homes because they've been truly abused and neglected. But because of current Federal law, these children are not being placed up for adoption—but are growing up in foster care. The numbers speak for themselves. There are more than half a million children currently living in foster care—an alarmingly high number which illustrates how the foster care system is in disarray.

Is it not the responsibility of our civilized society to ensure the safety and well-being of these vulnerable children by promoting adoption? And shouldn't we provide couples willing to love and care for these children the opportunity to do so? I believe the answer is clearly yes.

CRISIS NURSERIES

Mr. WYDEN. Mr. President, the reauthorization of the Family Preservation and Support Act is important to families who are at risk or in crisis. One notable service now specifically mentioned in the act is the care provided by a crisis nursery. Crisis nurseries provide respite and therapeutic services for families with young children to assist parents in attaining self-sufficiency. One crisis nursery in particular, the relief nursery of Eugene, OR, is a model child abuse and prevention program. After involvement with the relief nursery, fewer than 9 percent

of the 373 children served reported abuse, neglect, or domestic violence to the State child protection office. Moreover, 82 percent of children served by the relief nursery were living safely with their parents at the end of the year, averting foster care or other out-of-home placement. The relief nursery has accomplished these results through dedication to comprehensive family services emphasizing programs that strengthen the parent-child relationship. Does the Senator agree that crisis nurseries can play an important role in saving families?

Mr. ROCKEFELLER. Yes. Crisis nurseries help reduce child abuse incidents and, ultimately, reduce the necessity for foster care placements. Crisis nurseries can save a family.

Mr. WYDEN. I think the relief nursery is a needed member of the community, providing invaluable services to children who need them most. Crisis nurseries work because they provide intensive, personalized, and long-term services to families with children in the most vulnerable age groups. I thank the Senator for recognizing the work of nurseries, such as the relief nursery, in your bill.

Ms. MOSELEY-BRAUN. Mr. President, I support the Promotion of Adoption, Safety and Support for Abused and Neglected Children [PASS] Act, as a commonsense approach to child welfare. Under the PASS Act, a State, for the first time, must make a child's health and safety the paramount consideration when making any decision regarding a foster care or adoption placement.

It seems inconceivable that this is not currently the guiding principle behind every State's child welfare policy. The evolution of the child welfare system, however, has left a patchwork of goals and rules that can jeopardize a child's well being.

The PASS Act will, for the first time, guarantee that every adopted child with special needs will receive needed health care coverage from the State. Previously, a child's eligibility for health care was tied to the ability of the birth parents to pay, even though the birth parents had given up all legal and economic ties to the child. There was no consideration given to the ability of the adoptive, permanent parents to afford health care for the child.

Another example of the PASS Act's commonsense approach is the requirement that States provide for criminal records and child abuse registry checks of any prospective foster or adoptive parents, noncustodial adults living in a foster or adoptive home, and employees of child care institutions. Choosing a safe and supportive home for a child is not a simple task, but ensuring that the child is not placed with someone convicted of a serious crime or child abuse must be a basic requirement. This is not required under current law.

There are a number of other important provisions in this bill, including the reauthorization of the family preservation and family support program to strengthen families, and a system of rewards for States that increase adoption placements. Taken as a whole, this bill is an important step forward in our efforts to improve child health and safety.

The sponsors of this bill have worked diligently to forge bipartisan compromise on this legislation. I commend them for their efforts and their success.

As with all compromise legislation, there are provisions in the PASS Act with which I do not necessarily agree. I am concerned that insufficient efforts will be made to keep sound families together, that the allowance of child welfare waivers will lead to inadequate Federal oversight of child welfare in the States, and that funding must be increased in order to achieve a permanent solution to the problems plaguing our child welfare system.

While it is politically popular to withdraw Federal support and oversight for programs and turn power over to the States, I firmly believe that we cannot abandon our Federal role in providing for the welfare of the Nation's children. Whether we are talking about providing access to early childhood education, repairing the Nation's crumbling schools, or guaranteeing the health and safety of children in our foster care and adoption system, the Federal Government must continue to assist and oversee State efforts.

In the end, no child's welfare should be dependent on the generosity or failure of the foster care and adoption program in the State in which he or she was born. Commonsense requires that we continue to marshal the Nation's resources to provide for the next generation of Americans.

The PASS Act is an opportunity for Congress to assist States in providing for those of America's children in need of foster care or adoption. By ensuring that the health and safety of the child are paramount, this legislation puts us on the track to making the foster care and adoption system work for the children it is meant to serve. I thank my colleagues for their efforts and for their commitment to common sense, and urge the Senate to approve the PASS Act.

Mr. McCAIN. Mr. President, I rise today to express my support for the establishment of a national voluntary mutual reunion registry contained in section 205 of the Promotion of Adoption, Safety, and Support for Abused and Neglected Children [PASS] Act. This provision would permit the Secretary of Health and Human Services, at no net expense to the Federal Government, to facilitate the voluntary, mutually requested reunions of biological relatives who have been separated by adoption.

This registry is intended to help reunite the hundreds of thousands of adult adoptees, birth parents and siblings who are searching for each other. Currently, the search can be very costly, cumbersome, and futile. The national registry would help many individuals who were separated by adoption and are now searching for each other.

Some concerns have been raised that this provision would infringe an individual's privacy, and that a national voluntary registry could result in the inappropriate disclosure of private, sensitive information. This is completely inaccurate. I and the other sponsors of this provision, along with the Finance Committee have worked tirelessly to ensure that all the necessary safeguards have been included in this provision to ensure that an individual's personal privacy is not violated in any manner.

Under the guidelines for the national voluntary registry established in this bill, one party could not search out another individual unless both parties were searching for one another. All parties involved would have to, on their own accord, voluntarily decide to search for each other and participate in the registry. This provision specifically requires that the registry only contain information necessary to facilitate a match, that the confidentiality of all consenting participants be protected and that no information be disclosed without prior, written consent from the individual.

Section 205 specifically requires that any computerized system created to implement this registry must not intrude on any existing data systems at the Department of Health and Human Services and must utilize appropriate methods to protect the privacy of information contained in the registry. In addition, it establishes criminal and financial penalties for potential abusers of the national registry.

Finally, the measure specifically states that this registry does not preempt any State laws relating to adoption and the confidentiality of adoption records.

Mr. President, this provision is not a mandate, has absolutely no cost to the Federal Government or taxpayers, and is completely voluntarily. This important provision will help thousands of Americans who want to learn about themselves and their biological history.

Mr. WYDEN. Mr. President, in significant ways, the promotion of adoption, safety, and support for abused and neglected children represents an important step forward in Federal policy for child welfare. It parallels Oregon's best interest of the child bill in its recognition of the crucial importance of timely achievement of permanent family placements for children who must be temporarily placed in foster care.

Further, it clarifies that a child's health and safety are paramount concerns in considerations of reasonable efforts for family preservation. The PASS Act also broadens support for adoptive placement, increases post-adoption assistance for families, and emphasises the link between the child's welfare and parent's well-being. Moreover, the bill's intense interest in kinship care is both wise and timely. I am particularly concerned about this complex issue and I have devoted a lot of attention to it over the past several years.

Kinship care, the full-time care and protection of children by a relative, is in many cultures, a time honored tradition. Throughout history relatives have come forward to care for and raise children when the parents were unable to do so themselves. Recently, the decision over whether relatives may best provide for children has increasingly involved child welfare agencies. Yet, Mr. President, our country does not have a national policy to deal with relative care arrangements. In light of this fact, the PASS Act makes significant strides toward recognizing relative care arrangements for what they are—legitimate, appropriate placements—for a family. There is a precedent for this recognition; last year I fought for language in the welfare reform bill requiring that kinship care be considered first for children needing placement.

I am pleased that many of the provisions I included in my kinship care bill, S. 822, were incorporated in the PASS Act. One such provision allows kinship providers an opportunity to be heard during abuse and neglect proceedings. I have heard from grandparents in Oregon who tell me that they can add additional information that may be helpful to the court's determination of the child's future living arrangements, but often are not aware of their grandchild's placement in foster care or where they are in the system. It is important that relative caregivers are notified when there are administrative proceedings on a child's status.

The inclusion of a kinship care advisory panel instructed to make recommendations about kinship care policies is also included in this bill. Thankfully, relative caregivers and former foster children in relative care arrangements will now be able to sit on a panel and examine what is needed to improve these arrangements for all involved. The panel's findings must be submitted in a comprehensive report to the Department of Health and Human Services. The report will examine who kinship caregivers are, what services are provided to them and many other factors that will help us develop a national policy on this growing child welfare issue.

Another critical provision in the bill deals with standby guardianship. Many relative caregivers are caring for families devastated by HIV/AIDS. In adoption or guardianship proceedings today, dying parents are asked to give up their custodial rights over their children in order to ensure a permanent, stable placement for their child. Under this bill, any parent who is chronically ill or near death may designate a standby guardian without being forced to surrender their parental rights. PASS encourages States who have not already passed standby guardianship laws to do so. As we seek to adequately support relative care providers caring for children, we must first ask educated questions and receive thorough answers. Ultimately, the PASS Act has made a good-faith effort to recognize and study the issue of kinship care. This is a good first step for children and families.

Mr. CRAIG. Mr. President, I ask unanimous consent that the substitute amendment be agreed to.

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

The amendment (No. 1614) was agreed to.

Mr. CRAIG. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 867), as amended, was read a third time and passed.

Mr. CRAIG. Mr. President, the Senate, by this action, has just passed a major reform in the foster care of this country, an issue that bipartisan Senators have gathered on over the last several months to resolve. Senator ROTH, of the Finance Committee, in the last several weeks, working with Senator ROCKEFELLER, Senator CHAFEE, myself, Senator COATS, and Senator DEWINE have taken on an effort to reform foster care in this country by the proposal of this legislation that we have now gained the concurrence of the Senate on.

It is without question, in my opinion, a landmark piece of legislation because what it does, for the first time, is use foster care the way we intended it originally to be used. It ensures the safety for abused and neglected children. It promotes adoption. It accelerates permanent placement. It offers to children of this country in need an opportunity for a loving and permanent home. And it increases the accountability of reform.

I am extremely pleased that at this late hour we could finally bring about a conclusion to this effort.

NATIONAL VOLUNTARY MUTUAL REUNION REGISTRY

Mr. CRAIG. Mr. President, I now ask unanimous consent that the Senate proceed to S. 1487 introduced earlier today by myself.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 1487) to establish a National Voluntary Mutual Reunion Registry.

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

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

Mr. CRAIG. Mr. President, I ask unanimous consent that the bill be advanced to third reading and passed, and the motion to reconsider be laid upon the table, all without further action or debate.

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

The bill (S. 1487) was read a third time and passed, as follows:

S. 1487

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

SECTION 1. NATIONAL VOLUNTARY MUTUAL REUNION REGISTRY.

Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by adding at the end the following:

"SEC. 479A. NATIONAL VOLUNTARY MUTUAL REUNION REGISTRY.

"(a) EXCHANGE OF MUTUALLY REQUESTED IDENTIFYING INFORMATION.—The Secretary, in the discretion of the Secretary and provided that there is no net cost to the Federal Government, may use the facilities of the Department of Health and Human Services to facilitate the voluntary, mutually requested exchange of identifying information that has been mutually consented to, by an adult adopted individual who is 21 years of age or older with—

"(1) any birth parent of the adult adopted individual; or

"(2) any adult sibling who is 21 years of age or older, of the adult adopted individual,

if such persons involved have, on their own initiative, consented by a signed notarized statement to the exchange of such identifying information.

"(b) REQUIREMENTS.—The Secretary shall ensure that a National Voluntary Mutual Reunion Registry established under this section (in this section referred to as the "Registry") meets the following requirements.

"(1) CENTRALIZED CAPACITY.—The Registry provides a centralized nationwide capacity for the information described in subsection (a) and utilizes appropriately designed computer and data processing methods to protect the privacy of the information contained in the Registry, and does not intrude on any other data system maintained by the Department of Health and Human Services.

"(2) ESTABLISHMENT OF PROCEDURES.—The Registry complies with procedures established by the Secretary that provide that—

"(A) only information necessary to facilitate a match shall be contained in the Registry and the Registry shall not attempt to make contact for the purpose of facilitating a reunion with any individual who is not entered into or participating in the Registry;

"(B) to the maximum extent feasible, the confidentiality and privacy rights and interests of all parties participating in the Registry are protected; and

"(C) information pertaining to any individual that is maintained in connection with

any activity carried out under this section shall be confidential and not be disclosed for any purpose without the prior, written, informed consent of the individual with respect to whom such information applies or is maintained.

"(c) REASONABLE FEES.—Reasonable fees, established by taking into consideration, and not to exceed, the average charge of comparable services offered by States, may be collected for services provided under this section.

"(d) PENALTY FOR VIOLATION.—

"(1) FINE AND IMPRISONMENT.—Any individual or entity that is found to have disclosed or used confidential information in violation of the provisions of this section shall be subject to a fine of $5,000 and imprisonment for a period not to exceed 1 year.

"(2) NONAPPLICABILITY OF SECTION 3571 OF TITLE 18, UNITED STATES CODE.—The provisions of section 3571 of title 18, United States Code, shall not apply to a violation described in paragraph (1).

"(e) NO PREEMPTION.—Nothing in this section invalidates or limits any law of a State or of a political subdivision of a State concerning adoption and the confidentiality of that State's sealed adoption record policy.".

Mr. LEVIN. Mr. President, once again the Senate has gone on record in support of a measure aimed at humanizing the process through which adult biological relatives separated by adoption, who are looking for each other, can make contact.

The passage of this Craig-Levin bill would not have been possible without the steadfast leadership of Senator LARRY CRAIG. His sensitivity, his commitment, his compassion and his clear understanding of this issue has been enlightening to all of the Members of this body. Let me also thank Senator MCCAIN and Senator LANDRIEU for their commitment and bipartisan spirit throughout our discussions on this issue.

Mr. President, we are deeply touched by the difficulties experienced by adult adopted persons, birth parents, and separated siblings who, often for many years and at great expense, have been seeking one another. Aside from the natural human desire to know one's roots and genetic heritage, there are other important reasons why many birth relatives seek to make contact with each other. Some are seeking a deeper sense of identity, some need vital information which may affect their own mental and physical health and some are facing momentous family decisions that require more knowledge about their heritage; and a substantial percentage of birth parents say they want to be available to the adult children many relinquished at birth, during a time of stress, should they also desire to make contact.

We believe that S. 1487, the National Voluntary Mutual Reunion Registry, deals with these needs and emotions in a careful and sensitive way. The legislation permits the HHS Secretary, at no net expense to the Federal Government, to facilitate the voluntary, mutually requested exchange of identifying information that has been mutually consented to in a signed notarized statement of identifying information by the birth parent, adult adoptee 21 years or older or adult siblings.

This legislation does not call for the unsealing of adoption records. Currently, over half the States provide for voluntary and mutual reunion facilitation. However, State-based systems are restricted, by nature, to the geographic boundaries of the State. Since we are a mobile society, that limitation reduces the utility of State-based systems. Adoptions are often started in one State but finalized in another. Additionally, the adoptee, birth parent or siblings may be a resident of several different States during their lifetimes.

Finally, Mr. President, this legislation does not mandate, but simply gives the Secretary the discretion to facilitate voluntary, mutual reunions, if she so chooses.

I commend my colleagues in the Senate on the passage of this humane and much-needed legislation. I ask unanimous consent that the text of the bill be included in the RECORD again at this point.

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

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

PRIVATE RELIEF ACT OF BELINDA MCGREGOR

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 275, S. 1304.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1304) for the relief of Belinda McGregor.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1304

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

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Belinda McGregor shall be held and considered to have been **[**lawfully admitted to the United States for permanent residence**]** *selected for a diversity immigrant visa for fiscal year 1998* as of the date of the enactment of this Act upon payment of the required visa fee.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Belinda McGregor as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by one number during the current fiscal year the total number of immigrant visas available to natives of the country of the alien's birth under section 203**[**(a)**]***(c)* of the Immigration and Nationality Act (8 U.S.C. 1153**[**(a)**]***(c)*).

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

AMENDMENT NO. 1615

Mr. CRAIG. I send an amendment to the desk on behalf of Mr. HATCH.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for Mr. HATCH, proposes an amendment numbered 1615.

SECTION 1. At page 1, line 7, delete "lawfully admitted to the United States for permanent residence" and insert in lieu thereof the following: "selected for a diversity immigrant visa for FY 1998".

SECTION 2. At page 2, lines 4 and 5, change (a) to (c).

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. CRAIG. I ask unanimous consent that the bill, as amended, be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The bill (S. 1304), as amended, was read the third time and passed, as follows:

S. 1304

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

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Belinda McGregor shall be held and considered to have been selected for a diversity immigrant visa for fiscal year 1998 as of the date of the enactment of this Act upon payment of the required visa fee.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Belinda McGregor as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by one number during the current fiscal year the total number of immigrant visas available to natives of the country of the alien's birth under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)).

THE CALENDAR

Mr. CRAIG. Mr. President, I ask unanimous consent the Senate now proceed en bloc to Calendar No. 267, S. 508; No. 268, S. 857; H.R. 2731; and H.R. 2732; that the bills be considered read

the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bills be printed in the RECORD.

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

PRIVATE RELIEF OF MAI HOA "JASMIN" SALEHI

The bill (S. 508) to provide for the relief of Mai Hoa "Jasmin" Salehi, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Mai Hoa "Jasmin" Salehi, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

PRIVATE RELIEF OF ROMA SALOBRIT

The bill (S. 857) for the relief of Roma Salobrit, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 857

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

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Roma Salobrit shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act upon payment of the required visa fee.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Roma Salobrit as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by one number during the current fiscal year the total number of immigrant visas available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

PRIVATE RELIEF OF ROY DESMOND MOSER

The bill (H.R. 2731) for the relief of Roy Desmond Moser, was considered, ordered to a third reading, read the third time, and passed.

PRIVATE RELIEF OF JOHN ANDRE CHALOT

The bill (H.R. 2732) was considered, ordered to a third reading, read the third time, and passed.

Mr. GRAHAM. Mr. President, these two bills will provide relief for two men who have fought with valor and honor for this country. H.R. 2731 and H.R. 2732 will provide justice for two Americans by correcting the date they became U.S. citizens.

One of these men, John Andre Chalot, resides in my home State of Florida. Mr. Chalot, a retired postal worker living in Bradenton, FL, was born in Le Havre, France, on December 19, 1919. He immigrated to the United States with his parents in 1921. After being graduated from high school in 1939, he sought to enlist in the U.S. Army Air Corps. Because he was considered too young to fly in the corps he moved to Canada, joined the Royal Canadian Air Force [RCAF], and received his pilot wings. He flew Spitfires with the RCAF based in England from 1940 to 1943. While still in England, Mr. Chalot transferred to the U.S. Army Corps, 358th fighter Squadron, and received a commission as second lieutenant. At the time of his commission in 1943, Mr. Chalot had completed the naturalization process to become a U.S. citizen. Unfortunately, our Government misplaced Mr. Chalot's naturalization forms somewhere in the process.

Early in 1944, while flying a routine P-51 mission over Germany, Mr. Chalot's plane was fired upon and hit, causing him to crash-land in Holland. With the help of the Resistance, Mr. Chalot managed to get to Paris, but in July 1944, he was betrayed by Gestapo agents and confined at Fresnes Prison.

In August 1944, Germans crowded Mr. Chalot and 168 Allied airmen into boxcars and transported them to Buchenwald concentration camp. There they were confined in miserable, degrading, and inhumane conditions, forced to subsist on a starvation diet, and subjected to Nazi medical experiments. In November 1944, Mr. Chalot and most of his fellow airmen were transferred from Buchenwald to Luftstalag III, an infamous subcamp of Buchenwald, where they remained until their liberation at the end of the war.

After the war, Mr. Chalot returned to the United States, and was finally naturalized as a U.S. citizen on September 18, 1945.

On September 20, 1996, he applied to the Foreign Claims Settlement Commission for compensation pursuant to the Agreement Between the United States and Germany Concerning Final Benefits To Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution.

On September 5, 1997, the Commission denied Mr. Chalot's claim on the ground that he was not a U.S. citizen during his time as a Nazi prisoner of war and was, therefore, ineligible for compensation. H.R. 2731 would modify the date Mr. Chalot became a U.S. citizen and make him eligible for compensation under the Agreement Between the Federal Republic of Germany and the United States of America.

The other bill, H.R. 2732, provides relief for Mr. Roy Desmond Moser, a Massachusetts resident with an almost identical situation.

This legislation would make Mr. Chalot and Mr. Moser eligible for compensation by deeming them to be naturalized U.S. citizens as of the dates they began their military service.

Mr. President, I believe that these two bills provide relief for two courageous men who fought for our Nation during World War II. I hope my colleagues understand the personal significance of these measures for these two individuals.

ASIAN ELEPHANT CONSERVATION ACT OF 1997

Mr. CRAIG. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 278, H.R. 1787.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1787) to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants.

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

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

Mr. CRAIG. I ask unanimous consent the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statement relating to the bill be printed in the RECORD.

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

The bill (H.R. 1787) was read the third time and passed.

CORRECTING THE ENROLLMENT OF S. 399

Mr. CRAIG. Mr. President, I ask unanimous consent the Senate now proceed to the immediate consideration of Senate Concurrent Resolution 66, submitted earlier today by Senator MCCAIN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 66) to correct the enrollment of S. 399.

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

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

Mr. CRAIG. Mr. President, I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 66) was agreed to.

The concurrent resolution reads as follows:

S. CON. RES. 66

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 399), to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes, the Clerk of the Senate shall make the following correction in section 10 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (as amended by section 6 of the bill): Strike subsection (c) and insert the following:

"(c) NOTIFICATION AND CONCURRENCE.—

"(1) NOTIFICATION.—An agency or instrumentality of the Federal Government shall notify the chairperson of the President's Council on Environmental Quality when using the Foundation or the Institute to provide the services described in subsection (a).

"(2) NOTIFICATION DESCRIPTIONS.—In a matter involving 2 or more agencies or instrumentalities of the Federal Government, notification under paragraph (1) shall include a written description of—

"(A) the issues and parties involved;

"(B) prior efforts, if any, undertaken by the agency to resolve or address the issue or issues;

"(C) all Federal agencies or instrumentalities with a direct interest or involvement in the matter and a statement that all Federal agencies or instrumentalities agree to dispute resolution; and

"(D) other relevant information.

"(3) CONCURRENCE.—

"(A) IN GENERAL.—In a matter that involves 2 or more agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality), the agencies or instrumentalities of the Federal Government shall obtain the concurrence of the chairperson of the President's Council on Environmental Quality before using the Foundation or Institute to provide the services described in subsection (a).

"(B) INDICATION OF CONCURRENCE OR NONCONCURRENCE.—The chairperson of the President's Council on Environmental Quality shall indicate concurrence or nonconcurrence under subparagraph (A) not later than 20 days after receiving notice under paragraph (2).

"(d) EXCEPTIONS.—

"(1) LEGAL ISSUES AND ENFORCEMENT.—

"(A) IN GENERAL.—A disputes or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) that concern purely legal issues or matters, interpretation or determination of law, or enforcement of law by 1 agency against another agency shall not be submitted to the Foundation or Institute.

"(B) APPLICABILITY.—Subparagraph (A) this does not apply to a dispute or conflict concerning—

"(i) agency implementation of a program or project;

"(ii) a matter involving 2 or more agencies with parallel authority requiring facilitation and coordination of the various government agencies; or

"(iii) a nonlegal policy or decisionmaking matter that involves 2 or more agencies that are jointly operating a project.

"(2) OTHER MANDATED MECHANISMS OR AVENUES.—A dispute or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) for which Congress by law has mandated another dispute resolution mechanism or avenue to address or resolve shall not be submitted to the Foundation or Institute.".

GROUP HOSPITALIZATION AND MEDICAL SERVICES FEDERAL CHARTER REPEAL ACT

Mr. CRAIG. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 261, H.R. 497.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 497) to repeal the Federal charter of Group Hospitalization and Medical Services, Inc., and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. CHARTER FOR GROUP HOSPITALIZATION AND MEDICAL SERVICES, INC.

The Act entitled "An Act providing for the incorporation of certain persons as Group Hospitalization and Medical Services, Inc.", approved August 11, 1939, is amended—

(1) by inserting after section 9 the following new section:

"SEC. 10. The corporation may have 1 class of members, consisting of at least 1 member and not more than 30 members, as determined appropriate by the board of trustees. The bylaws for the corporation shall prescribe the designation of such class as well as the rights, privileges and qualifications of such class, which may include, but shall not be limited to—

"(1) the manner of election, appointment or removal of a member of the corporation;

"(2) matters on which a member of the corporation has the right to vote; and

"(3) meeting, notice, quorum, voting and proxy requirements and procedures.

If a member of the corporation is a corporation, such member shall be a nonprofit corporation.";

(2) by redesignating section 10 as section 11; and

(3) by adding at the end of section 11 (as so redesignated) the following: "The corporation may not be dissolved without approval by Congress.".

SEC. 2. CONSISTENT COVERAGE FOR INDIVIDUALS ENROLLED IN A HEALTH PLAN ADMINISTERED BY THE FEDERAL BANKING AGENCIES.

(a) ENROLLMENT IN CHAPTER 89 PLAN.—For purposes of chapter 89 of title 5, United States Code, any period of enrollment shall be deemed to be a period of enrollment in a health benefits plan under chapter 89 of such title, if such enrollment is—

(1) in a health benefits plan administered by the Federal Deposit Insurance Corporation before the termination of such plan on January 3, 1998; or

(2) subject to subsection (c), in a health benefits plan (not under chapter 89 of such title) with respect to which the eligibility of any employees or retired employees of the Board of Governors of the Federal Reserve System terminates on January 3, 1998.

(b) ENROLLMENT; CONTINUED COVERAGE.—

(1) ENROLLMENT.—Subject to subsection (c), any individual who, on January 3, 1998, is enrolled in a health benefits plan described in paragraph (1) or (2) of subsection (a) may enroll in an approved health benefits plan under chapter 89 of title 5, United States Code, either as an individual or for self and family, if, after taking into account the provisions of subsection (a), such individual—

(A) meets the requirements of that chapter 89 for eligibility to become so enrolled as an employee, annuitant, or former spouse (within the meaning of that chapter); or

(B) would meet the requirements of that chapter 89 if, to the extent such requirements involve either retirement system under such title 5, such individual satisfied similar requirements or provisions of the Retirement Plan for Employees of the Federal Reserve System.

(2) DETERMINATIONS.—Any determination under paragraph (1)(B) shall be made under guidelines established by the Office of Personnel Management in consultation with the Board of Governors of the Federal Reserve System.

(3) CONTINUED COVERAGE.—Subject to subsection (c), any individual who, on January 3, 1998, is entitled to continued coverage under a health benefits plan described in paragraph (1) or (2) of subsection (a) shall be deemed to be entitled to continued coverage under section 8905a of title 5, United States Code, but only for the same remaining period as would have been allowable under the health benefits plan in which such individual was enrolled on January 3, 1998, if—

(A) the individual had remained enrolled in that plan; and

(B) that plan did not terminate, or the eligibility of such individual with respect to that plan did not terminate, as described in subsection (a).

(4) COMPARABLE TREATMENT.—Subject to subsection (c), any individual (other than an individual under paragraph (3)) who, on January 3, 1998, is covered under a health benefits plan described in paragraph (1) or (2) of subsection (a) as an unmarried dependent child, but who does not then qualify for coverage under chapter 89 of title 5, United States Code, as a family member (within the meaning of that chapter) shall be deemed to be entitled to continued coverage under section 8905a of that title, to the same extent and in the same manner as if such individual had, on January 3, 1998, ceased to meet the requirements for being considered an unmarried dependent child of an enrollee under such chapter.

(5) EFFECTIVE DATE.—Coverage under chapter 89 of title 5, United States Code, pursuant to an enrollment under this section shall become effective on January 4, 1998.

(c) ELIGIBILITY FOR FEHBP LIMITED TO INDIVIDUALS LOSING ELIGIBILITY UNDER FORMER HEALTH PLAN.—Nothing in subsection (a)(22) or any paragraph of subsection (b) (to the extent that paragraph (2) relates to the plan described in subsection (a)(2)) shall be considered to apply with respect to any individual whose eligibility for coverage under the plan does not involuntarily terminate on January 3, 1998.

(d) TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.—The Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System shall transfer to the Employees Health Benefits Fund, under section

8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management after consultation with the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System, to be necessary to reimburse the Fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section. The amounts so transferred shall be held in the Fund and used by the Office of Personnel Management in addition to amounts available under section 8906(g)(1) of title 5, United States Code.

(e) ADMINISTRATION AND REGULATIONS.—The Office of Personnel Management—

(1) shall administer the provisions of this section to provide for—

(A) a period of notice and open enrollment for individuals affected by this section; and

(B) no lapse of health coverage for individuals who enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this section; and

(2) may prescribe regulations to implement this section.

Amend the title so as to read: "An Act to amend the Federal charter for Group Hospitalization and Medical Services, Inc., and for other purposes.".

Passed the House of Representatives February 26, 1997.

Attest:

ROBIN H. CARLE,
Clerk.

AMENDMENT NO. 1616

(PURPOSE: TO MAKE A TECHNICAL CORRECTION)

Mr. CRAIG. Senator THOMPSON has a technical amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for Mr. THOMPSON, proposes an amendment numbered 1616.

The amendment is as follows:

On page 8, line 15, strike "(2)".

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

The amendment (No. 1616) was agreed to.

Mr. CRAIG. I ask unanimous consent the committee amendment, as amended, be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, the title amendment be agreed to, and any statements relating to the bill be printed in the RECORD.

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

The committee amendment, as amended, was agreed to.

The bill (H.R. 497) was considered read the third time and passed.

EXPRESSING CONCERN OVER RUSSIA'S NEWLY PASSED RELIGION LAW

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar item No. 251, Senate Concurrent Resolution 58.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 58) expressing the concern of Congress over Russia's newly passed religion law.

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

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. CRAIG. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The concurrent resolution (S. Con. Res. 58) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 58

Whereas the Russian legislature approved a bill "On Freedom of Conscience and Religious Association", and Russian President Boris Yeltsin signed it into law on September 26;

Whereas under the new law, the Russian government exercises almost unrestricted control over the activities of both Russian and international religious groups;

Whereas the new law will grant privileged status to some religions while discriminating against others through restrictive reporting and registration requirements;

Whereas the new law jeopardizes religious rights by permitting government officials, in consultation with privileged religious groups, to deny or revoke the registration of minority religions and order their possible disbandment or prohibition, on the basis of such activities as home schooling, nonmedical forms of healing, "hypnotic" sermons, and other vaguely defined offenses;

Whereas the law also restricts foreign missionary work in Russia;

Whereas under the new law, religious organizations or churches that wish to continue their activities in Russia will have to provide confirmation that they have existed at least 15 years, and only those who legally operated 50 years ago may be recognized as national "Russian" religious organizations;

Whereas although Article 14 of the Russian Constitution stipulates that "religious associations are separate from the state and are equal before the law", Article 19 states that restriction of citizens' rights on grounds of religious affiliation are prohibited, and Article 28 stipulates that "each person is guaranteed freedom of conscience and freedom * * * to choose, hold, and disseminate religious and other convictions and to act in accordance with them", the new law clearly violates these provisions of the Russian Constitution;

Whereas the Russian religion law violates accepted international agreements on human rights and religious freedoms to which the Russian Federation is a signatory, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Final Act and Madrid and Vienna Concluding Documents, and the European Convention on Human Rights;

Whereas governments have a primary responsibility to promote, encourage, and protect respect for the fundamental and internationally recognized right to freedom of religion; and

Whereas the United States Government is committed to the right to freedom of religion and its policies, and should encourage foreign governments to commit to this principle: Now, therefore, be it—

Resolved by the Senate (the House of Representatives concurring), That Congress hereby—

(1) condemns the newly passed Russian antireligion law restricting freedom of religion, and violating international norms, international treaties to which the Russian Federation is a signatory, and the Constitution of Russia;

(2) recommends that President Clinton make the United States position clear to President Yeltsin and the Russian legislature that this antireligion law may seriously harm United States-Russian relations;

(3) calls upon President Yeltsin and the Russian legislature to uphold their international commitments on human rights, abide by the Russian Constitution's guarantee of freedom of religion, and reconsider their position by amending the new antireligion law and lifting all restrictions on freedom of religion; and

(4) calls upon all governments and legislatures of the independent states of the former Soviet Union to respect religious human rights in accordance with their international commitments and resist efforts to adopt the Russian discriminatory law.

EXPORT IMPORT BANK REAUTHORIZATION ACT OF 1997—CONFERENCE REPORT

Mr. CRAIG. Mr. President, I submit a report of the committee of conference on the bill (S. 1026), and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1026) to reauthorize the Export-Import Bank of the United States, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 7, 1997.)

Mr. CRAIG. I ask unanimous consent that the conference report be agreed to.

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

The conference report was agreed to.

TRANSPORTATION IMPROVEMENT ACT

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar item No. 169, H.R. 1086.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1086) to codify without substantive change laws related to transportation and to improve the United States Code.

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

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

Mr. CRAIG. Mr. President, I ask unanimous consent that the bill be considered read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R. 1086) was considered read the third time, and passed.

LOBBYING DISCLOSURE TECHNICAL AMENDMENTS ACT OF 1997

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of calendar item No. 247, S. 759.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 759) to provide for an annual report to Congress concerning diplomatic immunity.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. REPORTS AND POLICY CONCERNING DIPLOMATIC IMMUNITY.

Title I, of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.; commonly referred to as the "Foreign Missions Act") is amended by inserting after section 204A the following new section:

"SEC. 204B. CRIMES COMMITTED BY DIPLOMATS.

"(a) ANNUAL REPORT CONCERNING DIPLOMATIC IMMUNITY.—

"(1) REPORT TO CONGRESS.—The Secretary of State shall prepare and submit to the Congress, annually, a report concerning diplomatic immunity entitled "Report on Cases Involving Diplomatic Immunity".

"(2) CONTENT OF REPORT.—In addition to such other information as the Secretary of State may consider appropriate, the report under paragraph (1) shall include the following:

"(A) The number of persons residing in the United States who enjoy full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

"(B) Each case involving an alien described in subparagraph (A) in which an appropriate authority of a State, a political subdivision of a State, or the United States reported to the Department of State that the authority had reasonable cause to believe the alien committed a serious criminal offense within the United States, and any additional information provided to the Secretary relating to other serious criminal offenses that any such authority had reasonable cause to believe the alien committed before the period covered by the report. The Secretary may omit from such report any matter the provision of which the Secretary reasonably believes would compromise a criminal investigation or prosecution or which would directly compromise law enforcement or intelligence sources or methods.

"(C) Each case described in subparagraph (B) in which the Secretary of State has certified that a person enjoys full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

"(D) The number of United States citizens who are residing in a receiving state and who enjoy full immunity from the criminal jurisdiction of such state under laws extending diplomatic privileges and immunities.

"(E) Each case involving a United States citizen under subparagraph (D) in which the United States has been requested by the government of a receiving state to waive the immunity from criminal jurisdiction of the United States citizen.

"(F) Whether the Secretary has made the notifications referred to in subsection (c) during the period covered by the report.

"(3) SERIOUS CRIMINAL OFFENSE DEFINED.—For the purposes of this section, the term 'serious criminal offense' means—

"(A) any felony under Federal, State, or local law;

"(B) any Federal, State, or local offense punishable by a term of imprisonment of more than 1 year;

"(C) any crime of violence as defined for purposes of section 16 of title 18, United States Code; or

"(D)(i) driving under the influence of alcohol or drugs;

"(ii) reckless driving; or

"(iii) driving while intoxicated.

"(b) UNITED STATES POLICY CONCERNING REFORM OF DIPLOMATIC IMMUNITY.—It is the sense of the Congress that the Secretary of State should explore, in appropriate fora, whether states should enter into agreements and adopt legislation—

"(1) to provide jurisdiction in the sending state to prosecute crimes committed in the receiving state by persons entitled to immunity from criminal jurisdiction under laws extending diplomatic privileges and immunities; and

"(2) to provide that where there is probable cause to believe that an individual who is entitled to immunity from the criminal jurisdiction of the receiving state under laws extending diplomatic privileges and immunities committed a serious crime, the sending state will waive such immunity or the sending state will prosecute such individual.

"(c) NOTIFICATION OF DIPLOMATIC CORPS.—The Secretary should periodically notify each foreign mission of United States policies relating to criminal offenses committed by individuals with immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.".

Mr. CRAIG. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered read the third time, and passed, the motion to reconsider be laid upon the table, the title amendment be agreed to, and any statements relating to the bill appear at this point in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 759) was considered read the third time.

The title was amended so as to read:

A Bill to amend the State Department Basic Authorities Act of 1956 to require the Secretary of State to submit an annual report to Congress concerning diplomatic immunity.

AVIATION INSURANCE REAUTHORIZATION ACT OF 1997

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar item No. 274, Senate 1193.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:.

A bill (S. 1193) to amend chapter 443 of title 49, United States Code, to extend the authorization of the aviation insurance program, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Insurance Reauthorization Act of 1997".

SEC. 2. VALUATION OF AIRCRAFT.

(a) GENERAL AUTHORITY FOR INSURANCE AND REINSURANCE.—Section 44302(a)(2) of title 49, United States Code, is amended by striking "as determined by the Secretary." and inserting "as determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry.".

(b) LIMITATION ON MAXIMUM INSURED AMOUNT.—Section 44306(c) of title 49, United States Code, is amended by striking "as determined by the Secretary." and inserting "as determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry.".

SEC. 3. EFFECT OF INDEMNITY AGREEMENTS.

Section 44305(b) of title 49, United States Code, is amended by adding at the end the following: "If such an agreement is countersigned by the President or the President's designee, the agreement shall constitute, for purposes of section 44302(b), a determination that continuation of the aircraft operations to which the agreement applies is necessary to carry out the foreign policy of the United States.".

SEC. 4. ARBITRATION AUTHORITY.

(a) AUTHORIZATION OF BINDING ARBITRATION.—Section 44308(b)(1) of title 49, United States Code, is amended by inserting after the second sentence the following: "Any such policy may authorize the binding arbitration of claims made thereunder in such manner as may be agreed to by the Secretary and any commercial insurer that may be responsible for any part of a loss to which such policy relates.".

(b) AUTHORITY TO PAY ARBITRATION AWARD.—Section 44308(b)(2) of such title is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

"(B) pay the amount of a binding arbitration award made under paragraph (1); and".

SEC. 5. EXTENSION OF PROGRAM.

(a) IN GENERAL.—Section 44310 of title 49, United States Code, is amended by striking "September 30, 2002" and inserting "December 31, 1998".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 1997.

SEC. 6. USE OF AIRCRAFT FOR DEMONSTRATION.

Section 40102(a)(37)(A) of title 49, United States Code, is amended—

(1) by striking "or" in clause (i);

(2) by redesignating clause (ii) as clause (iii); and

(3) by inserting after clause (i) the following:

"(ii) owned by the United States Government and operated by any person for purposes related to crew training, equipment development, or demonstration; or".

Mr. CRAIG. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered and read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The committee substitute was agreed to.

The bill (S. 1193), as amended, was passed.

NATIONAL FAMILY WEEK

Mr. CRAIG. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar item No. 272, Senate Resolution 93.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 93) designating the week beginning November 23, 1997, and the week beginning on November 22, 1998, as "National Family Week", and for other purposes.

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

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

Mr. CRAIG. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 93) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 93

Designating the week beginning November 23, 1997, and the week beginning on November 22, 1998, as "National Family Week", and for other purposes,.

Whereas the family is the basic strength of any free and orderly society;

Whereas it is appropriate to honor the family unit as essential to the continued well-being of the United States; and

Whereas it is fitting that official recognition be given to the importance of family loyalties and ties: Now, therefore, be it

Resolved, That the Senate designates the week beginning on November 23, 1997 and the week beginning on November 22, 1998, as "National Family Week". The Senate requests the President to issue a proclamation calling on the people of the United States to observe each week with appropriate ceremonies and activities.

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 AMENDMENT

Mr. CRAIG. Mr. President, I now ask unanimous consent that the Senate now proceed to the consideration of S. 1258.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1258) to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

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

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

AMENDMENT NO. 1617

(Purpose: Technical Amendment)

Mr. CRAIG. Mr. President, Senator BENNETT has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho (Mr. CRAIG), for Mr. BENNETT, proposes an amendment numbered 1617.

On page 2, line 3, strike "(a)".

On page 3, line 4, strike ", under this Act,".

On page 3, beginning on line 5, strike "on the basis of race, color, or national origin".

Mr. BENNETT. Mr. President, I rise today to make a brief statement regarding S. 1258, a bill I introduced on October 6, 1997. This legislation will amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien not lawfully present in the United States from receiving assistance under that act. The Senate Committee on Environment and Public Works has reviewed this bill and approved it for Senate floor action.

My purpose in bringing this bill before the Senate is to address a loophole that was inadvertently created when immigration and welfare reform bills were recently enacted. In part, these bills were crafted to prevent illegal immigrants from entering the United States by denying Federal taxpayer paid benefits to illegal aliens. Currently, illegal aliens are still eligible to receive relocation assistance. Often, this assistance turns out to be a significant sum of money.

This legislation was originally introduced in the other body following an incident in California in which an illegal immigrant was awarded $12,000 because her legal status in this country made her ineligible to be moved into section 8 housing. In other instances, relocation assistance is being awarded to illegal aliens who then use the money to buy homes in their countries of origin.

This legislation simply closes a loophole which was overlooked in previous legislation and fully complies with the intent of Congress when it enacted immigration and welfare reform laws. I note that this legislation will not affect foreign nationals residing in the United States as legal residents or under the legal protection of a valid visa. In addition, the bill provides Federal agencies the ability to waive the provisions of this act in case of an exceptional and extremely unusual hardship.

I have one technical amendment to bring the bill into conformance with the legislation already passed by the other body. This amendment does not change the substance of the bill and I ask that it be considered with the bill. I have worked closely with the Senate Committee on Environment and Public Works in bringing this bill to the floor. I appreciate their support and the help of committee staff in moving this legislation toward enactment.

Mr. CHAFEE. Mr. President, today the Senate is considering S. 1258, a bill introduced by Senator BENNETT to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien who is not lawfully present in the United States from receiving assistance under that act. The Committee on Environment and Public Works unanimously approved this bill on Wednesday, October 29, 1997.

S. 1258 includes several features, in addition to the general provision prohibiting illegal aliens from receiving Federal assistance, to ensure that the act is carried out in a fair manner. In cases of extreme and unusual hardship, S. 1258 leaves it to the discretion of the Department of Transportation to provide a waiver to the ineligibility that is otherwise applicable. In addition, rights to compensation that an illegal alien may have under other Federal or State laws are not affected.

I ask for unanimous consent that a letter from the Congressional Budget Office be printed in the RECORD.

Mr. President, I encourage Senate adoption of this necessary measure.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE
Washington, DC, November 3, 1997.

Hon. JOHN H. CHAFEE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost

estimate for S. 1258, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien who is not lawfully present in the United States from receiving assistance under that Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts for this estimate are Deborah Reis (for federal costs), who can be reached at 226-2860, and Kristen Layman (for the state and local impact), who can be reached at 225-3220.

Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

CONGRESSIONAL BUDGET OFFICE, COST ESTIMATE

S. 1258.—A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien who is not lawfully present in the United States from receiving assistance under that Act

CBO estimates that implementing S. 1258 would cost the federal government less than $500,000 over the next year or two, assuming appropriation of the necessary amounts. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 1258 would impose no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no significant costs on state, local, or tribal governments.

S. 1258 would prevent persons who are not lawfully present in the United States from receiving relocation payments or other assistance when real property they occupy is acquired by a federal agency or with federal financing. The bill would require the U.S. Department of Transportation (DOT) to promulgate regulations within one year of enactment to implement the new law, including rules for determining whether a displaced person is lawfully present in the country and standards for judging when exceptions should be made for unusual hardship. DOT also would be responsible for providing agencies with information on proper implementation of the law through training and technical assistance.

Based on information provided by DOT and other agencies, and assuming appropriation of the necessary amounts, CBO estimates that DOT and other federal agencies would spend less than $500,000 to develop the necessary regulations, guidelines, and training programs to implement the legislation. We expect that the bill would have little or no effect on total property acquisition costs because so few transactions are likely to involve aliens who reside illegally in this country.

The bill would place a new requirement on state, local, and in some circumstances, tribal entities carrying out programs or projects with federal financial assistance that result in the displacement of persons. As a condition of receiving such assistance, the affected entities would have to determine whether displaced persons are lawfully present in the United States. Based on discussions with the U.S. Departments of Transportation and Housing and Urban Development, the Immigration and Naturalization Service, and affected state and local agencies, CBO estimates that the additional administrative costs to state, local, and tribal governments would be minimal.

On June 20, 1997, CBO prepared a cost estimate for H.R. 849, as ordered reported by the House Committee on Transportation and Infrastructure on June 11, 1997. The two bills are similar and the estimates are identical.

The CBO staff contacts for this estimate are Deborah Reis (for federal costs), who can be reached at 226-2860, and Kristen Layman (for the state and local impact), who can be reached at 225-3220. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

Mr. CRAIG. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be considered read the third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered

The amendment (No. 1617) was agreed to.

The bill (S. 1258), as amended, was passed, as follows:

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

SECTION 1. DISPLACED PERSONS NOT ELIGIBLE FOR ASSISTANCE.

Title I of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) is amended by adding at the end the following:

"SEC. 104. DISPLACED PERSONS NOT ELIGIBLE FOR ASSISTANCE.

"(a) IN GENERAL.—Except as provided in subsection (c), a displaced person shall not be eligible to receive relocation payments or any other assistance under this Act if the displaced person is an alien not lawfully present in the United States.

"(b) DETERMINATIONS OF ELIGIBILITY.—

"(1) PROMULGATION OF REGULATIONS.—Not later than 1 year after the date of enactment of this section, after providing notice and an opportunity for public comment, the head of the lead agency shall promulgate regulations to carry out subsection (a).

"(2) CONTENTS OF REGULATIONS.—Regulations promulgated under paragraph (1) shall—

"(A) prescribe the processes, procedures, and information that a displacing agency must use in determining whether a displaced person is an alien not lawfully present in the United States;

"(B) prohibit a displacing agency from discriminating, against any displaced person;

"(C) ensure that each eligibility determination is fair and based on reliable information; and

"(D) prescribe standards for a displacing agency to apply in making determinations relating to exceptional and extremely unusual hardship under subsection (c).

"(c) EXCEPTIONAL AND EXTREMELY UNUSUAL HARDSHIP.—If a displacing agency determines by clear and convincing evidence that a determination of the ineligibility of a displaced person under subsection (a) would result in exceptional and extremely unusual hardship to an individual who is the displaced person's spouse, parent, or child and who is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, the displacing agency shall provide relocation payments and other assistance to the displaced person under this Act if the displaced person would be eligible for the assistance but for subsection (a).

"(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section affects any right available to a displaced person under any other provision of Federal or State law.".

SEC. 2. DUTIES OF LEAD AGENCY.

Section 213(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633(a)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) provide, in consultation with the Attorney General (acting through the Commissioner of the Immigration and Naturalization Service), through training and technical assistance activities for displacing agencies, information developed with the Attorney General (acting through the Commissioner) on proper implementation of section 104;

"(3) ensure that displacing agencies implement section 104 fairly and without discrimination in accordance with section 104(b)(2)(B);".

PERMISSION TO CONVEY CERTAIN LANDS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 1347, and that the Senate then proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 1347) to permit the City of Cleveland, Ohio to convey certain lands that the U.S. conveyed to the city.

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

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

Mr. CRAIG. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

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

The bill (S. 1347) was passed, as follows:

S. 1347

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

SECTION 1. DEFINITIONS.

For purposes of this section, the term "fair market value" shall have the meaning provided that term by the Secretary of Transportation, by regulation.

SEC. 2. AUTHORITY TO GRANT WAIVERS.

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to section 47153 of title 49, United States Code, and section 3, the Secretary of Transportation may waive any of the terms contained in the deed of conveyance described in subsection (b).

(b) DEED OF CONVEYANCE.—The deed of conveyance described in this subsection is the deed of conveyance issued by the United States and dated January 10, 1967, for the conveyance of lands to the city of Cleveland, Ohio, for use by the city for airport purposes.

SEC. 3. CONDITIONS.

(a) FAIR MARKET VALUE OR EQUIVALENT BENEFIT.—As a condition to receiving a

waiver under this section, the city of Cleveland, Ohio, may convey an interest in the lands described in section 2(b) only if the city receives, in exchange for the interest—

(1) an amount equal to the fair market value of the interest; or

(2) an equivalent benefit.

(b) USE OF AMOUNTS OR EQUIVALENT BENEFITS.—Any amount or equivalent benefit that is received by the city of Cleveland shall be used by the city for—

(1) the development, improvement, operation, or maintenance of a public airport; or

(2) lands (including any improvements to those lands) that produce revenues that are used for airport development purposes.

MEASURE PLACE ON THE CALENDAR—S. 1414

Mr. CRAIG. Mr. President, I ask unanimous consent that S. 1414 be read for a second time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1414) to reform and restructure the processes by which tobacco byproducts are manufactured, marketed and distributed to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

Mr. CRAIG. I object to further consideration.

The PRESIDING OFFICER. The bill will be placed on the Calendar of General Orders.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations which are at the desk: Joseph Brame and Sarah Fox.

I further ask unanimous consent that the Labor Committee be discharged from further consideration of Peter Hurtgen and Wilma Liebman and the Senate proceed to these nominations en bloc. I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nominations be printed in the RECORD, and the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed en bloc are as follows:

NATIONAL LABOR RELATIONS BOARD

Peter J. Hurtgen, of Florida, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2001.

Wilma B. Liebman, of the District of Columbia, to be a Member of the National Labor Relations Board for the remainder of the term expiring December 16, 1997.

Wilma B. Liebman, of the District of Columbia, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2002.

Joseph Robert Brame, III, of Virginia, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2000.

Sarah McCracken Fox, of New York, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 1999.

NATIONAL LABOR RELATIONS BOARD

Mr. KENNEDY. Mr. President, the long impasse over the membership of the National Labor Relations Board is finally broken. For the first time since August 1995, the Board will have a full complement of five confirmed members. As a result, the Board will have additional resources to handle the many important cases on its docket. There will be greater certainly in industrial relations, which is good for labor, good for management, and good for the country.

The nominees to be confirmed represent a balanced and fair package. The two Republican nominees, Peter Huertgen of Miami and J. Robert Bram III of Charlottesville, VA, are distinguished management lawyers, with many years of experience in Federal court in the NLRB litigation, and I know they will make a significant contribution as members of that Board.

There are also two Democratic nominees, Wilma Liebman and Sarah Fox, both of Washington, DC. Ms. Liebman has served as Deputy Director of the Federal Mediation and Conciliation Service since 1994, and she has done an outstanding job. She helped to resolve dozens of disputes between labor and management, and worked effectively to administer the operations of the FMCS. Ms. Liebman also has extensive experience representing labor unions and their members. She brings a wealth of knowledge of labor-management relations to this position. and I am confident she will serve with great distinction on the Board.

I am particularly pleased that the Senate will finally confirm the nomination of Sarah Fox, who is well known to many of us in the Senate. From 1990 until January 1996, she served as counsel on the Labor Committee staff, and she did an extraordinary job on issues of vital importance to working families, especially in areas such as job safety and health, pension rights, fair wages, and reform of job training programs and the Davis-Bacon Act. She worked well with Senators on both sides of the aisle, and has been serving as a recess appointee on the Board. I have great respect to Sarah's ability an commitment to public service, and I'm delighted by her confirmation.

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate consider the following nominations on the Executive Calendar. Calendar items 180, 181, 248, 252, 332, 375, 384, 455, 457, 464, 467, 468, 469 through 483 and all other military nominations reported by the Armed Services Committee today.

I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's actions, and the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

LEGAL SERVICES CORPORATION

Ernestine P. Watlington, of Pennsylvania, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1999.

John T. Broderick, Jr., of New Hampshire, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1999.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Olivia A. Golden, of the District of Columbia, to be Assistant Secretary for Family Support, Department of Health and Human Services.

Nancy-Ann Minn Deparle, of Tennessee, to be Administrator of the Health Care Financing Administration.

NATIONAL COUNCIL ON DISABILITY

Ela Yazzie-King, of Arizona, to be a Member of the National Council on Disability for a term expiring September 17.

DEPARTMENT OF COMMERCE

Terry D. Garcia, of California, to be Assistant Secretary of Commerce for Oceans and Atmosphere.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Eva M. Plaza, of Maryland, to be an Assistant Secretary of Housing and Urban Development.

THE JUDICIARY

Rodney W. Sippel, of Missouri, to be U.S. District Judge for the Eastern and Western District of Missouri.

Charles R. Breyer, of California, to be U.S. District Judge for the Northern District of California.

Bruce C. Kauffman, of Pennsylvania, to be U.S. District Judge for the Eastern District of Pennsylvania.

DEPARTMENT OF JUSTICE

James William Blagg, of Texas, to be U.S. Attorney for the Western District of Texas for the term of 4 years.

G. Douglas Jones, of Alabama, to be U.S. Attorney for the Northern District of Alabama for the term of 4 years.

DEPARTMENT OF DEFENSE

Robert M. Walker, of Tennessee, to be Under Secretary of the Army.

Jerry MacArthur Hultin, of Virginia, to be Under Secretary of the Navy.

F. Whitten Peters, of the District of Columbia, to be Under Secretary of the Air Force.

IN THE AIR FORCE

The following Air National Guard of the U.S. officer for appointment in the Reserve of the Air Force, to the grade indicated under title 10, United States Code, section 12203:

To be brigadier general

Col. Ronald A. Turner, XX...

The following named officer for appointment in the U.S. Air Force 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. John P. Jumper, xx...

The following named officer for appointment in the U.S. Air Force 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. Frank B. Campbell, xx...

The following named officer for appointment in the U.S. Air Force 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. David W. McIlvoy, xxx...

The following named officer for appointment in the U.S. Air Force 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. Lansford E. Trapp, Jr., xx...

The following named officer for appointment in the U.S. Air Force 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. David J. McCloud, xx...

The following named officer for appointment in the U.S. Air Force 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. Patrick K. Gamble, xx...

IN THE ARMY

The following Army National Guard of the U.S. officer for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

To be brigadier general

Col. Howard L. Goodwin, xx...

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. David R. Bockel, xx...
Brig. Gen. James G. Browder, Jr., xx...
Brig. Gen. Melvin R. Johnson, xx...
Brig. Gen. J. Craig Larson, xx...
Brig. Gen. Rodney D. Ruddock, xxx...

To be brigadier general

Col. Celia L. Adolphi, xxx...
Col. Donna F. Barbish, xx...
Col. Emile P. Bataille, xx...
Col. Joel G. Blanchette, xx...
Col. George F. Bowman, xx...
Col. Gary R. DiLallo, xxx...
Col. Douglas O. Dollar, xx...
Col. Russell A. Eggers, xx...
Col. Sam E. Gibson, xx...
Col. Fred S. Haddad, xx...
Col. Karol A. Kennedy, xx...
Col. Dennis E. Klein, xx...
Col. Duane L. May, xx...
Col. Robert S. Silverthorn, Jr., xxx...
Col. James T. Spivey, Jr., xx...
Col. William B. Watson, Jr., xx...
Col. Charles E. Wilson, xx...

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

To be brigadier general

Col. David R. Irvine, xx...

IN THE NAVY

The following named officer for appointments in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. William J. Fallon, xx...

CENTRAL INTELLIGENCE AGENCY

Robert M. McNamara, Jr., of Maryland, to be General Counsel of the Central Intelligence Agency.

Navy nominations beginning MATTHEW B. AARON, and ending THOMAS A. ZWOLFER, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 29, 1997.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR SUNDAY, NOVEMBER 9, 1997

Mr. CRAIG. I ask unanimous consent that when the Senate completes its business today, it stand adjourned until the hour of 1 p.m. on Sunday, November 9. I further ask that on Sunday, immediately following the prayer, the routine requests through the morning hour be granted.

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

PROGRAM

Mr. CRAIG. Mr. President, tomorrow it is the hope that the omnibus appropriations bill will be cleared for action by the Senate. A rollcall vote is anticipated. However, I would not expect that vote to occur prior to 1:30 p.m.

The Senate intends to consider and complete action on the following: the FDA reform conference report and legislative or executive items cleared for action. Therefore, Members can anticipate rollcall votes throughout Sunday's session of the Senate.

ORDER FOR ADJOURNMENT

Mr. CRAIG. If there is no further business to come before the Senate, I now ask the Senate stand adjourned under the previous order, following remarks of Senator GRASSLEY and Senator CHAFEE.

The PRESIDING OFFICER (Mr. BROWNBACK). Without objection, it is so ordered. The Senator from Rhode Island.

PROMOTION OF ADOPTION, SAFETY, AND SUPPORT FOR ABUSED AND NEGLECTED CHILDREN ACT

Mr. CHAFEE. Mr. President, I would like to express my strong support for legislation we considered this evening, the Promotion of Adoption, Safety, and Support for Abused and Neglected Children, the so-called PASS Act. This bill, which I introduced along with Senators CRAIG, ROCKEFELLER, DEWINE, COATS, JEFFORDS, and others, will make some critical changes to the child welfare system, changes which will vastly improve the lives of hundreds of thousands of children currently in foster care and waiting for adoptive homes.

We have been working on this legislation for the past year, and I am very pleased we were able to work out a proposal that everyone could support. The primary goal of this so-called PASS Act is to ensure that abused and neglected children are in safe, permanent settings. About a half a million children who have been abused or neglected currently live outside their homes, either in foster care or with relatives. In Rhode Island, there are nearly 1,500 children who have been removed from their homes and are in foster care. Many of these children will be able to return to their parents, but others will not.

Under the current system, children remain in foster care an average of 3 years. Mr. President, I call to your attention and that of everyone who may be interested in this subject, a child in foster care on the average remains there 3 years before any decision is made about that child's future. And in some cases the wait is even longer. It is time we put a stop to this, and our bill does that.

The PASS Act directs States to shorten this time, all the while ensuring that the child's health and safety are guaranteed. Our bill removes unnecessary geographic barriers to adoption, and requires criminal record checks for all prospective foster and adoptive parents, and other adults living in the household. It allows children to be freed for adoption more quickly in extreme cases, such as when the parents have murdered another child, and requires States to document efforts to move children into safe adoptive homes.

The PASS Act also contains some important provisions that will go a long way toward helping to find homes for so-called special needs children. Lack of medical coverage is a huge barrier to families who want to adopt special needs children. Many of these children have significant physical and mental health problems due to years of abuse, neglect, or foster care. Parents who adopt these children are taking huge financial risks. If these children are not guaranteed health insurance, there will be great reluctance in many cases for the prospective parents to adopt these children. Our bill ensures that special needs children who are going to be adopted will have medical coverage. We also ensure that children whose adopted parents die, or whose adoptions are disrupted in some fashion, will continue to receive Federal

subsidies when they are adopted by new parents.

Finally, our bill reauthorizes and provides a modest increase for the Family Preservation and Support Program, which is a worthwhile program that prevents children from having to be removed from their homes.

This is a good bill. The sponsors have worked long and hard to come up with this compromise. We have talked with the House about the minor differences between our bills and it appears we will be able to quickly conference and pass this bill, hopefully before the Senate goes out this year.

In closing, let me thank and congratulate the Members of the PASS coalition who worked so tirelessly on the measure. Senators CRAIG, ROCKEFELLER, DEWINE, COATS, JEFFORDS, and others have made enormous contributions toward this initiative. This would not have happened without their dedication to the children who we are trying to move from foster care into adoptive homes.

I also thank Chairman ROTH of the Finance Committee for helping us to move quickly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I also want to congratulate this body for the passage of the adoption bill. It is a good step forward. I hope when we work out the differences between the House and Senate, they can be worked out amicably. I hope there is not a watering down of the Senate provisions.

I would also like to have legislation passed yet this year. If it can't be worked out that way, obviously it is going to have to be put off until next year until it can be conferenced, but I hope we can work out these differences yet this year.

A pioneer in the adoption field wrote "when a child of the streets stands before you in rags, with tear-stained face, you cannot easily forget him, and yet you are perplexed what to do. The human soul is difficult to interfere with. You hesitate how far you should go."

Congress has been considering adoption and foster care reform this year that has caused all of us involved to ask, how far should we go?" But after extensive research into the failure of the foster care system, I ask how far can we go?

Confronting the issues for children in foster care is uncomfortable—almost painful. But the foster care system is in crisis and children are suffering. We are compelled to confront these problems.

Foster care is a complicated entitlement program. Meaningful reform can only happen when Congress recognizes the seriousness of the problem and begins taking the measured steps toward reform.

While the issues are complex, so are the solutions.

Today we are getting what we pay for, long-term foster care. Twenty-one States are under consent decrees because they failed to take proper care of their children who had been abused or neglected by their parents.

Set up to serve as a temporary, emergency situation for children, the foster care system is now a lifestyle for many kids.

The Federal Government continues to pour billions of dollars into a system that lacks genuine accountability.

Instead of encouraging States to increase adoptions, the current system rewards long-term foster care arrangements.

Jennifer Toth described in her book "Orphans of the Living," children are "consigned to the substitute child care system, a chaotic, prison-like system intended to raise children whose parents and relatives cannot or will not care for them."

She also wrote, "the children in substitute child care today have all suffered trauma. They are all at greater risk than the general child population. Yet they are given less care, when they need more care. Many thousands of children are lost and millions of dollars are wasted each year because no one—not the caseworker, not the foster home—takes full responsibility for them. Instead, each is passed from one caseload and placement to another, with too many kids and too little attention to go around. When these children look to adults for help, no one is there. Only when their situation becomes desperate, when they also fail, are they awarded the attention they crave."

One organization said that "foster care has been a black hole for many of America's neediest and most neglected children."

"I have a poster in my office that inspires me to work for real reform. The Iowa Citizen Foster Care Review Board asked children who were waiting to be adopted what they would like to tell us and this is what the children said: "Don't leave us in foster care so long." "It is scary to move from home to home, find us one good family where we can feel like a real member of the family." "Check on us frequently while we're in foster care to ask us how we're doing and make sure we are safe." "Tell us what's going on so we don't have to guess. Tell us how long it will be before we're adopted and why things seem to take so long."

Dave Thomas of Wendy's challenged me and others to make sure kids have a happy childhood. For those who have had a happy childhood it is hard to understand why. For those who did not have a happy childhood—you know why, he said.

Children need to know that they have a permanency—which means successful, healthy reunification with their birth families or permanency in an adoptive home.

My wife, Barbara, and I, have been blessed as the parents of five children. Today, we get to watch our sons and daughters enjoy their own families and the happiness found through parenthood. These experiences have made me appreciate the importance of a family unit. A happy, permanent home life provides more than a safe haven for kids. It gives children confidence to grow into positive contributors in our society.

In the United States, at least a half million children are not living in permanent homes. While waiting for adoption or a safe return to their natural families, many kids may live out their childhoods in the foster care system. Sadly, it often turns into a lonely, even futile transition. If the "window of opportunity" is missed, a child can leave the system a legal orphan, as an adult.

These children leave foster care and enter onto the welfare rolls or into prison. Only 17 percent of those who emancipate from the system become completely self-supporting. Barely half finish high school, a little less than half are gainfully employed as adults. And, almost 60 percent of the girls give birth within a few years of leaving the system.

Since 1982, about 20,000 children a year are adopted from foster care. Obviously, that leaves tens of thousands of kids in limbo every year.

Reform is needed to help place more children in a safe, permanent home. Improvements should limit the time a child legally can spend in foster care; remove financial incentives to keep kids in foster care; and, provide incentives for successful family reunifications or adoptions, not attempts.

More needs to be done to dispel the myth that some kids are unadoptable. I say that no child is unadoptable, we just havent't found a home for them yet. And, most children want the permanency provided through adoption.

I support the promotion of adoption, safety, and support for the Abused and Neglected Children Act, or Pass Act, because it takes the initial, necessary steps toward real reform.

For the first time, in 17 years, this body has strived to address the pain and suffering of these children. A cornerstone is laid upon which future reforms can be built.

The Pass Act will ensure health care coverage for adopted special needs children; break down geographic restrictions facing adoptive families; and, encourage creative adoptive efforts and outreach.

Thanks to Senator DEWINE's vision and efforts we have strengthened the reasonable efforts statute. Senator DEWINE raised our awareness on this issue and has been a champion for these children.

One of the problems we as legislators have experienced has been the inadequate statistics to understand the performance of the States. The data is sparse and many States can't tell us how many children they actually have in their care or how long they have been there. The Pass Act will require States to report critical statistics. No longer will children languish without being identified, their lives will be personalized to those responsible for them. We will know who they are, where they are, and how long they have been in the system. And, the status quo will not be able to hide behind the lack of information excuse.

Currently, the Federal Government does not require that States actively seek adoptive homes for all free-to-be-adopted children, who often are assigned to long-term foster care. This bill, however, will compel States to make reasonable efforts to place a child in an adoptive home. Long-term foster care should never be a solution for a child.

The Federal Government plays a significant role in child welfare, by providing funds to States and attaching conditions to these funds. The single largest category of Federal expenditure under the child welfare programs is for maintaining low-income children in foster care.

To receive Federal funds, States must comply with requirements designed so that children can remain safely with their families or return home after they have been placed in foster care. States will be penalized for not complying with the Pass Act.

In most States, children are being denied permanency because of the artificial barrier of geography. The Senate bill contains a provision that will break down the geographic barriers to adoption.

An adoption organization in a northeastern State shared with me a real life example of why this provision is necessary.

Allison, Beth, Jimmy, and Jarod are siblings, ages 6, 8, 10, and 11. They were freed for adoption in October 1996.

Because the siblings had regular visits and a close relationship with each other, their caseworker hoped to find a family that could adopt all four children. Our agency was able to send the caseworker the home studies of four out-of-State families who were interested in, and had space to adopt, all four children. However, the State child welfare agency pressured the worker to select in-State families for the children.

Over a period of 6 months, there were no appropriate in-State families who could adopt all four children, so it was decided to split the sibling group. Jimmy and Jarod were placed with one family, and a different family has been identified for Allison and Beth.

It is the intent of this legislation to remove the geographic barriers that keep children from appropriate adoptive families.

I recognize the Members for their efforts on this issue and congratulate the authors of this monumental piece of legislation.

They understood the complexity of this issue and pushed for reform. It was a very unique coalition, and I was glad to be part of it.

Under Senator CRAIG's leadership, a successful consensus was formed and bipartisan, incremental steps were taken.

Senator ROTH was also instrumental in forging an agreement with Members so that this bill could pass with an overwhelming majority. His guidance and insight were critical to the bill's success.

Today we begin to change the culture surrounding adoption. Children deserve permanent homes. All children are valuable and adoptable.

I have been impressed by the compassion of those who adopt these special children. They are gifted and should inspire us all.

We know that more families are willing to adopt children, including those with the most challenging of circumstances.

We have always had a class of children considered unadoptable.

Several decades ago many said that minority children were unadoptable. We know now that is not true.

Many once thought that children with AIDS were unadoptable. We know now that is not true.

Adoption organizations are finding homes for children and have waiting lists of parents all over the country anxious to adopt children despite their special circumstances. One adoption agency has a waiting list of a hundred families, willing to adopt a child with Down's syndrome.

A family in Texas adopted 8 drug-exposed siblings ranging in age from 2 to 10.

Susan Badeau, a witness before the Senate Finance Committee, shared her story about adopting 19 children out of the foster care system—virtually rescuing them from a lifetime in foster care.

The Pass Act will encourage permanency for the children who cannot return to their original homes.

To ensure that these new adoptive families are healthy and stay together they will need postadoption services and respite care.

Postadoptive services are crucial for the success of these families because many of these children will have long-term service needs.

In States where postadoption services are offered, the number of adoptive families that disrupt is significantly lower.

According to the Congressional Research Service the following Federal programs could be used to provide postadoption services to adoptive families. Although none of these programs is exclusively intended to provide such services, they are among a number of allowable activities. They include the following: The Adoption Opportunities Program; the Family Preservation Program; Child Welfare Services; Child Abuse Prevention and Treatment Act; Community-Based Family Resource and Support; Child Care and Development Block Grant; and the Social Services Block Grant.

I was pleased with the provision in the Pass Act which emphasizes adoption promotion and support services in the Family Preservation and Support Service Act.

I ask unanimous consent to print in the RECORD an explanation of the services provided under these programs.

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

1. The Adoption Opportunities Program authorizes appropriations for the Department of Health and Human Services to conduct a number of adoption-related activities, including provision of post-legal adoption services for families that have adopted special needs children. These services may be provided either directly or by grant or contract with States, local governments, public or private nonprofit licensed child welfare or adoption agencies, or adoptive family groups. Services must supplement, and not supplant, activities funded through other sources with the same general purpose, including individual, group or family counseling, case management, training, assistance to adoptive parent organizations, and assistance to support groups for adoptive parents, adopted children or siblings of adopted children.

2. Family Preservation Program. The Social Security Act authorizes entitlement grants to States, which are used for two types of services: family preservation, and community-based family support. "Family preservation" services are intended for children and families (including adoptive families) that are at risk or in crisis, and may include respite care of children to provide temporary relief for parents or other care givers, and services designed to improve parenting skills in such areas as child development, family budgeting, coping with stress, health and nutrition.

3. Child Welfare Services. Under subpart 1 of title IV-B, the Social Security Act also authorizes appropriations for grants to states for child welfare services, which are defined broadly to include public social services directed toward protection and promotion of the welfare of children. These funds are typically used to support State children protective service and child welfare systems. However, while post-adoption services are not specifically identified in the statute, they could be allowable activities at State option.

4. Child Abuse Prevention and Treatment Act. Title I of the Child Abuse Prevention and Treatment Act (CAPTA) authorizes funds for HHS to conduct a variety of discretionary activities, including grants to mutual support and self-help groups for strengthening families, respite and crisis nursery programs provided by community-based organizations, and hospital-based information and referral services for parents of

children with disabilities and children who have been victims of abuse or neglect.

5. Community-Based Family Resource and Support. Title II of CAPTA authorizes HHS to make grants to Stats to develop, operate, and expand statewide networks of community-based family resource and support programs. These programs provide various forms of support for families, including respite care for adoptive families.

6. Child Care and Development Block Grant (CCDBG). This program authorizes both discretionary and mandatory funding for States to help subsidize the cost of child care for low-income families, including both working families and families receiving welfare. Adoptive families in need of child care could potentially receive assistance under this program, assuming they met income and other eligibility criteria.

7. Social Services Block Grant (SSBG). Title XX of the Social Security Act authorizes entitlement grants to States that may be used for a wide variety of social services at the states' discretion. Although services for adoptive families are not specified in the law, States could opt to use SSBG funds for this purpose.

Mr. GRASSLEY. Mr. President, let's build upon the cornerstone of this monumental bill. Congress has a chance to continue to press on for meaningful reform. In spite of this legislation, some children will still remain hostages in an inefficient system.

Any future reforms must: First, strive to dramatically limit the time a child can legally spend in foster care. According to the available statistics, the national average length of stay in foster care is three years—three birthdays, three christmases, first, second and third grade. Second, remove financial incentives to keep children in foster care; and provide incentives for success not for attempts. Currently the system pays the same rate per child per month without limitation. The Federal Government is entitled to pay for performance.

Senator BROWNBACK plans to hold hearings next year as chairman of the Subcommittee on Oversight of the District of Columbia to determine what the Federal Government can do to address the crumbling foster care system in the District.

These children are the most vulnerable of all—their little lives begin with abuse and neglect by their own parents and, for many, they experience systemic abuse by languishing in long term foster care.

CRS stated that "children are vulnerable and their well-being is affected by conditions beyond their control." But is not beyond our control.

Those on the front lines, on whom we rely to make this policy work include: the court appointed special advocates, volunteers who advocate in the courts on the children's behalf; juvenile judges—an Illinois judge told me she requires each of the children's pictures to be attached to the front of their files so that those who come in contact with the case know that these are children, not a caseload number; the foster and adoptive parent associations; the citizen foster care review boards; special needs adoption organizations, Governors, the human services departments and social workers.

We are all responsible for these children who depend on us. Foster care is a poor parent. A loving, committed family is the best gift to give any child. Passage of this bill is one way to encourage this.

I yield the floor.

The PRESIDING OFFICER. Without objection, the Senator from Alabama will be recognized for however much time he may consume.

Mr. SESSIONS. Thank you, Mr. President.

First, I would like to say how much I appreciate the excellent comments of the Senator from Iowa, Senator GRASSLEY. He believes deeply in improving the life and health of children, as you do, Mr. President, and have worked toward that end.

I salute the work that has been done. It is a major step forward in improving foster care and the ability to adopt children in America, which is something this Congress, I think, will be able to take real pride in.

CLAY COUNTY VETERANS MEMORIAL PARK DEDICATION

Mr. SESSIONS. Mr. President, I rise this evening to speak about a dedication ceremony that will take place tomorrow afternoon in the city of Lineville in Clay County, AL. Mr. President, I would first like to take this opportunity to express my deep regret for not having been able to be in Lineville this afternoon with those who have gathered for the dedication of the Clay County Veterans Memorial Park. I would be remiss if I did not also take this opportunity to offer my sincerest thanks to Alabama State Senator Gerald Dial and the other members of the Veterans Memorial Board for working hard to make the Clay County Veterans Memorial Park a reality and for extending an invitation to me to participate in their dedication ceremony.

Mr. President, I make these remarks tonight for one reason. Simply, It is about honor. Certainly, not personal honor. That is one variety we are all familiar with. No, the type of honor to which I am referring is the uncommon variety. It is the variety that we bestow as a tribute on special occasions for veterans and other heros in our society who made the supreme sacrifice.

In less than 24 hours, my constituents will gather to honor all the men and women who, over the years, left their homes and loved ones, their jobs, friends and neighbors all over Clay County to answer a special calling. The veterans they honor might have grown up in Delta, in Ashland, in Cragford, in Hollins, in Millerville, in Barfield, in Lineville or anywhere in between, but even though they may have been separated by the miles and the years between them, a common thread ran through each of their lives. They were all connected by their love for this land and this country.

We should take a moment to reflect on that for a minute—connected by a distinguishable act of love of country and a willingness to serve that country where ever it directed. Hence, Mr. President, I stand here tonight to join them in paying homage, to show our respect, and our sincerest appreciation for the sacrifices that these patriots made for our country. Sacrifices that ensured the freedom you and I enjoy today and our children's children will enjoy years from now. With the dedication of this memorial park they are simply saying thank you to all those who have gone before, those who believed enough in freedom to risk their lives.

In commemorating the memory of these friends and loved ones, we are reflecting on a glorious past, but we are also pausing, I think, for a moment to look forward in time with a hopeful spirit and a pledge of unwavering support to the young men and women in communities all around this great Nation that we will unconditionally support them just as we supported those we honor today.

The Clay County Veterans Memorial Park will be as much an emblem of the courageous spirit and bravery of patriots from yesteryear, as it will be a beacon of hope and source of strength for future generations. I pledge to do my part to make sure that we remain the strongest and greatest country in the world, and we defend our just national interest.

Mr. President, ours is both an important and a unique moment in history. We no longer live in the bipolar world that shaped our lives and our political consciousness over the last half century. The monolithic presence of the Soviet Union has been replaced by new threats. We live in a rapidly changing world where our ability to adapt and our commitment to remain a world leader will be tested by both the cunning and the strong. The veterans being honored today defeated Nazi Fascism, brought Soviet Communism to its knees, were victorious against tyranny, and protected democracy and freedom around the world. They led our country through times of conflict and war to the edge of the 21st century.

Had I been able to be with my constituents today, I would have reminded them that as our Nation moves forward we will face new national defense considerations. We must maintain a strong military, and I will give my full support to our men and women in uniform. The military must, I believe, be capable of protecting our interests and the lives of our soldiers in places like Bosnia, Korea, and the Middle East when

asked to do so. We must therefore provide our service men and women with the best training, the best equipment, the best information, and the best overall opportunity for success under any circumstance, so that when they are called to perform, they will emerge victorious.

We have approached a time of major historical significance in the area of foreign policy and international cooperation. We have new and exciting opportunities to promote peace and prosperity throughout the world that many of us may never have thought possible. The winds of democracy and economic prosperity now blow in Eastern Europe precisely because of the sacrifices of those being honored today. Mr. President, patriots from Clay County, AL fought and died to make this prosperity possible. The overwhelming desire on the part of counties around the world to emulate us—to be like America is a testament to our proud past and an example of fairness that is the hallmark of our society.

We are, I truly believe, standing on the brink of a change of historic proportions. It represents a step forward for peace and cooperation that will surely carry us well into the 21st century. We must always remember those who made this possible. I am reminded of a quote by Gen. Douglas MacArthur on April 19, 1951, as he spoke before Congress. He said that, "Old soldiers never die, they just fade away." Tomorrow will be a great day for Clay County. Memorial Park is for the veterans, living and dead, who fought so that freedom, our freedom, would never perish. It also represents that community's commitment to a memory of sacrifices made, and promises kept.

Mr. President, I thank the citizens of Clay County for their individual sacrifices, and hope that they will find solace in this place they gather to dedicate today. It is also my hope that they will find solace in the knowledge that their sacrifices are honorable too, and as lasting and worthy as the sacrifices of those who have gone on before them.

I thank the Chair.

ADJOURNMENT UNTIL 1 P.M. TOMORROW

The PRESIDING OFFICER. The Senate, under the previous order, will stand adjourned until 1 p.m., Sunday, November 9, 1997.

Thereupon, the Senate, at 7:31 p.m, adjourned until Sunday, November 9, 1997 at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate November 8, 1997:

DEPARTMENT OF EDUCATION

CYRIL KENT MCGUIRE, OF NEW JERSEY, TO BE ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT, DEPARTMENT OF EDUCATION, VICE SHARON PORTER ROBINSON, RESIGNED.

NATIONAL LABOR RELATIONS BOARD

JOSEPH ROBERT BRAME, III, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2000, VICE JAMES M. STEPHENS, TERM EXPIRED.

SARAH MCCRACKEN FOX, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 1999, VICE JOHN C. TRUESDALE.

FEDERAL TRADE COMMISSION

MOZELLE WILLMONT THOMPSON, OF NEW YORK, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 1996, VICE CHRISTINE A. VARNEY, RESIGNED.

ORSON SWINDLE, OF HAWAII, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 1997, VICE ROSCOE BURTON STAREK, III, TERM EXPIRED.

FEDERAL DEPOSIT INSURANCE CORPORATION

DONNA TANOUE, OF HAWAII, TO BE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF FIVE YEARS, VICE RICKI RHODARMER TIGERT, RESIGNED.

DONNA TANOUE, OF HAWAII, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 3, 2000, VICE RICKI ROHODARMER TIGERT, RESIGNED.

THE JUDICIARY

RONALD M. GOULD, OF WASHINGTON, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE ROBERT R. BREEZER, RETIRED.

BARRY G. SILVERMAN, OF ARIZONA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE WILLIAM CAMERON CANBY, JR., RETIRED.

SAM A. LINDSAY, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF TEXAS, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate November 8, 1997:

LEGAL SERVICES CORPORATION

ERNESTINE P. WATLINGTON, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1999.

JOHN T. BRODERICK, JR., OF NEW HAMPSHIRE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1999.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OLIVIA A. GOLDEN, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR FAMILY SUPPORT, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

NANCY-ANN MINN DEPARLE, OF TENNESSEE, TO BE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION.

NATIONAL COUNCIL ON DISABILITY

ELA YAZZIE-KING, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1999.

DEPARTMENT OF COMMERCE

TERRY D. GARCIA, OF CALIFORNIA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

EVA M. PLAZA, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

DEPARTMENT OF DEFENSE

ROBERT M. WALKER, OF TENNESSEE, TO BE UNDER SECRETARY OF THE ARMY.

JERRY MACARTHUR HULTIN, OF VIRGINIA, TO BE UNDER SECRETARY OF THE NAVY.

F. WHITTEN PETERS, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF THE AIR FORCE.

CENTRAL INTELLIGENCE AGENCY

ROBERT M. MCNAMARA, JR., OF MARYLAND, TO BE GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

NATIONAL LABOR RELATIONS BOARD

PETER J. HURTGEN, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2001.

WILMA B. LIEBMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 16, 1997.

WILMA B. LIEBMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2002.

JOSEPH ROBERT BRAME, III, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2000.

SARAH MCCRACKEN FOX, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 1999.

THE JUDICIARY

RODNEY W. SIPPEL, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN AND WESTERN DISTRICTS OF MISSOURI.

CHARLES R. BREYER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

BRUCE C. KAUFFMAN, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

DEPARTMENT OF JUSTICE

JAMES WILLIAM BLAGG, OF TEXAS, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS.

G. DOUGLAS JONES, OF ALABAMA, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF ALABAMA FOR THE TERM OF FOUR YEARS.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be brigadier general

COL. RONALD A. TURNER, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE 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. JOHN P. JUMPER, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE 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. FRANK B. CAMPBELL, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE 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. DAVID W. MCILVOY, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE 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. LANSFORD E. TRAPP, JR., [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE 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. DAVID J. MCCLOUD, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE 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. PATRICK K. GAMBLE, [redacted]

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be brigadier general

COL. HOWARD L. GOODWIN, [redacted]

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. DAVID R. BOCKEL, [redacted]

BRIG. GEN. JAMES G. BROWDER, JR., [redacted]
BRIG. GEN. MELVIN R. JOHNSON, [redacted]
BRIG. GEN. J. CRAIG LARSON, [redacted]
BRIG. GEN. RODNEY D. RUDDOCK, [redacted]

To be brigadier general

COL. CELIA L. ADOLPHI, [redacted]
COL. DONNA F. BARBISH, [redacted]
COL. EMILE P. BATAILLE, [redacted]
COL. JOEL G. BLANCHETTE, [redacted]
COL. GEORGE F. BOWMAN, [redacted]
COL. GARY R. DILALLO, [redacted]
COL. DOUGLAS O. DOLLAR, [redacted]
COL. RUSSELL A. EGGERS, [redacted]
COL. SAM E. GIBSON, [redacted]
COL. FRED S. HADDAD, [redacted]
COL. KAROL A. KENNEDY, [redacted]
COL. DENNIS E. KLEIN, [redacted]
COL. DUANE L. MAY, [redacted]
COL. ROBERT S. SILVERTHORN, JR., [redacted]
COL. JAMES T. SPIVEY, JR., [redacted]
COL. WILLIAM B. WATSON, JR., [redacted]
COL. CHARLES E. WILSON, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be brigadier general

COL. DAVID R. IRVINE, [redacted]

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. WILLIAM J. FALLON, [redacted]

NAVY NOMINATIONS BEGINNING MATTHEW B. AARON, AND ENDING THOMAS A. ZWOLFER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 29, 1997.

WITHDRAWALS

EXECUTIVE MESSAGES TRANSMITTED BY THE PRESIDENT TO THE SENATE ON NOVEMBER 8, 1997, WITHDRAWING FROM FURTHER SENATE CONSIDERATION THE FOLLOWING NOMINATIONS:

NATIONAL LABOR RELATIONS BOARD

JOSEPH ROBERT BRAME, III, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 1999, VICE JOHN C. TRUESDALE, WHICH WAS SENT TO THE SENATE ON OCTOBER 28, 1997.

SARA MCCRACKEN FOX, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2000, VICE JAMES M. STEPHENS, TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON JANUARY 9, 1997.